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TUESDAY, JULY 25, 1978

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for March are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of July 3, 1978, documents from the following agencies in the Department of Health, Education, and Welfare are no longer being assigned to the Tuesday/Friday schedule: Alcohol, Drug Abuse and Mental Health Administration (ADAMHA); Center for Disease Control (CDC); Health Resources Administration (HRA); Health Services Administration (HSA); National Institutes of Health (NIH); and Public Health Service (PHS).

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This corrects the title of the position excepted under schedule C in the Department of Energy which was incorrectly given in the document published in 43 FR 3993, Jan. 31, 1978.

EFFECTIVE DATE: July 25, 1976.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(c)(2) is corrected to read as set out below:

§ 213.3331 **Department of Energy.**

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(2) Two private secretaries to two members of the Commission and one confidential secretary to each of the Commission's remaining two members.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-20547 Filed 7-24-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Federal Home Loan Bank Board

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This corrects the section number and the title of the position excepted under schedule C in the Federal Home Loan Bank Board which was incorrectly given in the document published in 43 FR 25989, June 16, 1978.

EFFECTIVE DATE: July 25, 1976.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3354(d) is corrected to read as set out below:

§ 213.3354 **Federal Home Loan Bank Board.**

* * * * *

(d) One secretary to the Assistant to the Chairman and two secretaries (steno), one to each assistant to a Board member.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-20546 Filed 7-24-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C certain positions at the Department of Health, Education, and Welfare because they are confidential in nature and (2) reestablishes certain positions at HEW because they are confidential in nature.

EFFECTIVE DATE: July 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3316 (a) (3), (9), (10), and (h)(8) are added as set out below:

§ 213.3316 **Department of Health, Education, and Welfare.**

(a) *Office of the Secretary.* * * *

(3) One writer to the Secretary. * * *

(9) One special assistant to the Executive Secretary.

(10) One staff assistant to the Secretary.

* * * * *

(h) *Office of the Assistant Secretary for Health.* * * *

(8) One Special Assistant for Adolescent Pregnancy to the Assistant Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-20548 Filed 7-24-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under schedule C one position of Administrator, Research and Special Programs Administration, Office of the Secretary, Department of Transportation because the position is confidential in nature.

EFFECTIVE DATE: July 7, 1978.

FOR FURTHER INFORMATION:

On position authority contact: Dean Bollman, Civil Service Commission, 202-632-7676.

On position content contact: Thomas M. McKenna, Chief Executive, Staffing Branch, Department of Transportation, 202-426-4122.

Accordingly, 5 CFR 213.3394(a)(14) is added as set out below:

§ 213.3394 **Department of Transportation.**

(a) *Office of the Secretary.* * * *

(14) Administrator, Research and Special Programs Administration.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-20544 Filed 7-24-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Veterans Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Not to exceed 20 positions at grades GS-13 through 15 in the Veterans Administration's Administrative Scholars Program are excepted under schedule A because it is impracticable to hold an examination for them. Appointments under this authority may not exceed 4 years.

EFFECTIVE DATE: July 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3127(c) is added as set out below:

§ 213.3127 Veterans Administration.

* * * * *

(c) Not to exceed 20 positions at grades GS-13 through 15 in the VA Administrative Scholars Program. Appointments under this authority may not exceed 4 years.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
James C. Spry,
Executive Assistant to the Commissioners.

[FR Doc. 78-20545 Filed 7-24-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Avocado Reg. 20, Amdt. 2]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment revises the maturity requirements for specified varieties of avocados. Maturity studies indicate these varieties will mature on different dates than previously anticipated because of unseasonal growing conditions in the production area. Specified weights or diameters and picking dates are maturity indices needed to assure that avocados will ripen satisfactorily after picking.

EFFECTIVE DATE: July 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement, and Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the marketing order, and upon other information, it is found that the maturity requirements specified in this amendment, will tend to effectuate the declared policy of the act.

(2) It is further found that it is impracticable, and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment is necessary to prevent the shipment of immature avocados.

Accordingly, it is found that avocado regulation 20 should be amended, as hereinafter set forth.

Order. (1) The provisions of subparagraphs (a) (2) and (8) of § 915.320 (avocado regulation 20; 43 FR 22660; 30036) are amended by revising in table I and in subparagraph (a)(8) the dates and minimum weights applicable to specified varieties so that after such revision the portion of table I and subparagraph (a)(8) relating to such varieties of avocados reads as follows:

§ 915.320 Avocado regulation 20.

* * * * *

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Dr. DuPuis #2	6-19-78	16 oz. 3-9/16 in.	7-3-78	14 oz. 3-7/16 in.	7-17-78	12 oz. 3-2/16 in.	7-24-78
Pollock	7-3-78	18 oz. 3-11/16 in.	7-31-78	16 oz. 3-7/16 in.	8-14-78	14 oz. 3-4/16 in.	8-21-78
Simmonds	7-3-78	16 oz. 3-9/16 in.	7-31-78	14 oz. 3-7/16 in.	8-14-78	12 oz. 3-1/16 in.	8-21-78
Nadir	7-3-78	14 oz. 3-3/16 in.	7-24-78	12 oz. 3-1/16 in.	8-7-78	10 oz. 2-14/16 in.	8-14-78
Booth 7	9-11-78	18 oz. 3-13/16 in.	9-25-78	16 oz. 3-10/16 in.	10-9-78	14 oz. 3-8/16 in.	
Booth 7 (Continued)					10-23-78	12 oz. 3-5/16 in.	11-6-78
J. M. Poropat	6-19-78	20 oz.	6-26-78	18 oz.	7-17-78	16 oz.	8-7-78
Haile	7-3-78	20 oz.	7-31-78	16 oz.	8-14-78	14 oz.	8-21-78
Ruehle	7-17-78	18 oz. 3-11/16 in.	8-7-78	16 oz. 3-9/16 in.	8-14-78	14 oz. 3-7/16 in.	
Ruehle (Continued)					8-21-78	12 oz. 3-5/16 in.	9-4-78
Dawn	7-17-78	12 oz. 3-4/16 in.	8-14-78	10 oz. 3-0/16 in.	8-21-78		
Webb 2	7-17-78	18 oz.	8-14-78	16 oz.	8-21-78		
232	7-31-78	14 oz.	8-14-78	12 oz.	8-28-78		
Gretchen	7-31-78	14 oz.	8-14-78	12 oz.	8-28-78		
B&B	7-31-78	16 oz. 3-8/16 in.	9-4-78				
Nesbitt	7-31-78	22 oz. 3-12/16 in.	8-14-78	18 oz. 3-8/16 in.	8-21-78	16 oz. 3-5/16 in.	9-4-78
Pinelli	7-31-78	18 oz. 3-12/16 in.	8-14-78	16 oz. 3-10/16 in.	8-28-78		
Miguel	7-31-78	22 oz. 3-13/16 in.	8-14-78	20 oz. 3-12/16 in.	8-28-78	18 oz. 3-10/16 in.	9-11-78
Trapp	7-31-78	14 oz. 3-10/16 in.	8-14-78	12 oz. 3-7/16 in.	8-28-78		

* * * * *

(a) * * *

(8) Except as otherwise provided in subparagraphs (10) and (11) of this paragraph, varieties of the West Indian type of avocados not listed in table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 3, 1978.

(ii) From July 3, 1978, through August 13, 1978, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 14, 1978, through September 3, 1978, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 4, 1978, through October 8, 1978, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated, July 19, 1978, to become effective July 24, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-20555 Filed 7-24-78; 8:45 am]

[3410-02]

[Avocado Reg. 26, Amdt. 2]

PART 944—FRUITS; IMPORT REGULATIONS

Avocados

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment revises the maturity requirements applicable to imported avocados of the Pollock and Trapp varieties and those applicable to imported avocados of the West Indian varieties. The requirements are the same as those applicable to avocados produced in south Florida and regulated under a Federal marketing order. The amended regulation is required by Federal law.

EFFECTIVE DATE: July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of the amended regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such requirements mandatory; (b) such regulation imposes the same maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under avocado regulation 20, amendment 2, which becomes effective July 24, 1978; (c) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; (d) 3 days notice hereof, the minimum prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

Accordingly, the provisions of paragraphs (a) (2), (4), and (5) of §944.18 (avocado regulation 26; 43 FR 22664; 29932) are hereby amended to read as follows:

§944.18 Avocado regulation 26.

(a) * * *

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 3, 1978; (ii) from July 17, 1978, through July 30, 1978, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 1/16 inches in diameter; (iii) from July 31, 1978, through August 13, 1978, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 1/16 inches in diameter; and (iv) from August 14, 1978, through August 20, 1978, unless the individual fruit in each lot of such avocados weighs 14 ounces or measures at least 3 1/16 inches in diameter.

* * * * *

(4) Avocados of the Trapp variety shall not be imported (i) prior to July 31, 1978; (ii) from July 31, 1978, through August 13, 1978, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 1/16 inches in diameter; and (iii) from August 14, 1978, through August 27, 1978, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 1/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 3, 1978; (ii) from July 17, 1978, through August 13, 1978, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 14, 1978, through September 3, 1978, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 4, 1978, through October 8, 1978, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: July 19, 1978, to become effective July 31, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-20553 Filed 7-24-78; 8:45 am]

[3410-02]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County to be inspected and meet minimum grade, size, cleanliness, pack and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 114 and order No. 947, both as amended, regulate the handling of potatoes grown in designated counties of California and Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Oregon-California Potato Com-

mittee, established under the order, is responsible for its local administration.

This regulation is based upon recommendations made by the committee at its public meeting in Beaverton, Oreg., on June 15, 1978.

The grade, size, maturity, pack, cleanliness and inspection requirements specified herein are similar to those issued during the last season. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. These specific proposals benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and will tend to effectuate the declared policy of the act.

This season potatoes of the Norgold variety grown in district No. 5 are required to have a minimum diameter of 2¼ inches. The committee believes that this ¼-inch increase in the minimum size from last season will help to improve the quality of the Norgold pack, particularly the smaller sizes remaining after the 50-pound cartons are packed.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable.

Potatoes grown in and shipped from district 5 must meet higher size requirements, comparable to those in effect in Washington State which is contiguous. District 5 potatoes compete directly with Washington potatoes in the fresh market place and therefore size requirements should be similar.

Inspection requirements may be modified for certain handlers whose facilities are located far enough from major production areas to cause a substantial financial burden in maintaining a full-time Federal-State inspector.

A specified quantity of potatoes is exempt from maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments are permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity, pack and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt, subject to the safeguard provisions only when shipped outside the district where grown.

Shipments for use as livestock feed within the production area or to specified adjacent areas are likewise exempt; a limit to the destinations of such shipments is provided so that their use for the purpose specified may be reasonably assured. Shipments of potatoes between districts 2 and 4 for planting, grading, and storing are exempt from requirements because these two areas are homogeneous and have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in district 5 may be shipped without regard to the requirements to the counties of Adams, Benton, Franklin, and Walla Walla in the State of Washington, and Malheur County, Oreg., for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such potatoes are exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements are set forth for export shipments.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the notice which was recommended by the Oregon-California Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) notice of proposed rulemaking was published in the June 30, 1978, FEDERAL REGISTER (43 FR 28508) allowing interested persons until July 15, 1978, to file comments, and none was received, and (4) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

The regulation is as follows:

§ 947.336 [Removed]

1. *Termination of regulations:* Handling regulation § 947.336, as amended, effective August 22, 1977, through October 15, 1978 (42 FR 37820 and 41403) shall be terminated upon the effective date of this section.

2. Section 947.337 is added to read as follows:

§ 947.337 Handling regulation.

During the effective date hereof through October 15, 1979, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (f) of this section or unless such potatoes are handled in accordance with paragraphs (g) and (h), or (i) of this section.

(a) *Grade requirements.* All varieties—U.S. No. 2, or better grade.

(b) *Size requirements.* All varieties—1⅞ inches minimum diameter except potatoes from district No. 5 shall be 2 inches minimum diameter or 4 ounces minimum weight, and beginning August 1, 1978, Norgolds from district 5 shall be 2¼ inches minimum diameter. However, potatoes for export may be 1½ inches minimum diameter.

(c) *Cleanliness requirements.* All varieties and grades—as required in the United States Standards for Grades of Potatoes, except that U.S. Commerical may be no more than "slightly dirty."

(d) *Maturity (skinning) requirements.*

(1) *Round and White Rose varieties:* not more than "moderately skinned."

(2) *Other long varieties (including but not limited to Russet Burbank and Norgold):* not more than "slightly skinned."

(3) Not to exceed a total of 100 hundredweight of potatoes may be handled during any 7-day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a certificate of privilege.

(e) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped provided the lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by USDA color photograph E (internal discoloration—U.S. No. 2—upper limit), POT-CP-9, May 1972, or not more than 5-percent serious damage by internal defects.

(f) *Inspection.* (1) Except when relieved by paragraphs (g), (h) or (i) of this section and subparagraph (2) of this paragraph, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Handlers making shipments from facilities located in an area where inspection costs would otherwise exceed 1½ times the current per-hundredweight inspection fee, are exempt from onsite inspection provided such handler has made applica-

tion to the committee for inspection exemption on forms supplied by the committee, and provided further that such handler signs an agreement with the committee to report each shipment on a daily basis and pay the committee a sum equal to the current inspection fee.

(3) For the purpose of operation under this part each required inspection certificate is hereby determined, pursuant to § 947.60(c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days plus the number of days that the potatoes were held in refrigerated storage.

(4) Any lot of potatoes previously inspected pursuant to § 947.60 and certified as meeting the requirements of this part is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking of the potatoes.

(g) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity, pack and inspection requirements set forth in paragraphs (a) through (f) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed, subject to applicable safeguard requirements of paragraph (h) of this section.

(2) Livestock feed: However, potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the counties of Benton, Franklin, and Walla Walla in the State of Washington and to Malheur County, Oreg., may be made, subject to the safeguard provisions of paragraph (h) of this section.

(3) Planting in the district where grown. Further, potatoes for this purpose grown in district No. 2 or district No. 4 may be shipped between these two districts.

(4) Grading or storing under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (h) of this section.

(ii) Potatoes grown in district No. 2 or district No. 4 may be shipped for grading of storing between those two districts without regard to the safeguard requirements of paragraph (h) of this section.

(iii) Potatoes grown in district No. 5 may be shipped for grading and storing to points in the counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oreg., without regard to the safeguard provisions of paragraph (h) of this section.

(5) Charity: Except that shipments for charity may not be resold if they do not meet the requirements of the marketing order, and that shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (h) of this section.

(6) Starch manufacture.

(7) Canning, freezing, prepeeling, and "other processing" (except starch manufacturing), as hereinafter defined (including storage for such purposes).

(h) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant to paragraph (g) shall obtain from the committee a certificate of privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (4)(i), and (5) of paragraph (g) of this section shall obtain a certificate of privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making shipments pursuant to subparagraph (7) of paragraph (g) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee, in accordance with its administrative rules.

(i) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part except no potatoes may be handled pursuant to this exemption which do not meet the requirements of paragraphs (a), (b), (c), (d), and (e) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(j) *Definitions.* (1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," "moderately skinned" and "slightly skinned" shall have the same meaning as when used in the U.S. standards for grades of potatoes (7 CFR 2851.1540-2851.1566) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422, U.S. standards for grades of peeled potatoes (7 CFR 2852.2421-2852.2433).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or applying material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in marketing agreement No. 114, as amended, and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: July 19, 1978 to become effective July 25, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-20552 Filed 7-24-78; 8:45 am]

[3410-02]

PART 948—IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $21,500 and establishes a rate of assessment of $0.00328 per hundredweight of potatoes for the functioning of the Colorado Area No. 2 Potato Committee. This regulation enables the Committee to collect assessments from first handlers on all assessable potatoes handled and use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to marketing agreement No. 97 and order No. 948, both as amended, regulating the handling of Irish potatoes grown in the State of Colorado, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submit-

ted by the committee, established under the marketing order, and other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

The regulation is as follows:

§ 948.280 Expenses, rate of assessment and carryover of unexpended funds.

(a) The reasonable expenses that are likely to be incurred during the fiscal period July 1, 1978, through June 30, 1979, by the area No. 2 committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $21,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.00328 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period except seed potatoes and potatoes for canning, freezing and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period ending June 30, 1979, may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: July 20, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-20604 Filed 7-24-78; 8:45 am]

[3410-02]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES) DEPARTMENT OF AGRICULTURE

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

Subpart—Procedure for the Conduct of Referendums

APPENDIX I—AGREEMENT BETWEEN THE AMERICAN SHEEP PRODUCERS COUNCIL, INC., AND THE U.S. DEPARTMENT OF AGRICULTURE

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth a proposed new agreement between the American Sheep Producers Council, Inc., ("ASPC"), and the U.S. Department of Agriculture. The agreement would authorize the U.S. Department of Agriculture to make deductions from the incentive payments made to producers under the National Wool Act of 1954, as amended, on shorn wool and unshorn lambs marketed during the years 1978 through 1981. Amounts so deducted are to be used by ASPC for advertising and sales promotion programs and programs for the dessimination of information concerning wool, sheep, or the products thereof. A referendum is scheduled for August 21-September 1, 1978, to determine producer approval of the proposed agreement.

EFFECTIVE DATE: If the proposed agreement set our herein is approved in the referendum among sheep producers, the agreement will be effective when signed by the president of ASPC and the Administrator, AMS, USDA.

FOR FURTHER INFORMATION, CONTACT:

Ralph L. Tapp, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, 202-447-3970.

SUPPLEMENTARY INFORMATION: The agreement is authorized under section 708 of the National Wool Act, subject to approval by two-thirds of the number of sheep producers, or by sheep producers owning two-thirds of the volume of sheep production. Section 708 also provides that the Secretary of Agriculture is authorized to conduct a referendum to ascertain producer approval based on the number of sheep producers or the number of sheep owned by the producers voting in the referendum. A final rule for the conduct of the referendum appears elsewhere in this issue of the FEDERAL REGISTER. Since the National Wool Act became law in 1954, there have been six similar agreements between the U.S. Department of Agriculture and the American Sheep Producers Council, Inc. These agreements covered the marketing years 1955 through 1977 and each became effective following producer approval through a referendum. The new agreement is similar to the most recent agreement dated January 20, 1975 (39 FR 32766, September 11, 1974; 40 FR 6802, February 14, 1975), except that the rate of deduction from the incentive payments to producers for marketings in calendar year 1978 is being increased from 1½ cents to 2½ cents per pound of shorn wool marketed. The rate of deduction for marketings in calendar years 1979-81 shall be subsequently agreed upon by the U.S. Department of Agriculture and ASPC but shall not be in excess of the rate of deduction for marketing year 1978. The rate of deduction has been increased at the request of wool growers because declining sheep and wool production in recent years has reduced the total amount of funds deducted for promotion purposes and because inflation has increased costs for promotion activities.

The proposed rule covering the proposed agreement was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27845), and interested persons were invited to submit comments on the proposal by July 13, 1978. No comments were received. Except for minor typographical or clerical errors, the final rule is unchanged from the proposed rule.

The referendum to ascertain producer approval of the proposed agreement will be held August 21-September 1, 1978. The proposed agreement will become effective only after the sheep producers approve the agreement in the referendum and when it is signed by the president of ASPC and the Administrator, AMS, USDA.

Accordingly, the proposed rule (7 CFR Chapter XI, Part 1270, Wool and Mohair Advertising and Promotion, Subpart—Procedure for the Conduct of Referendums, Appendix I—Agreement between the American Sheep Producers Council, Inc., and the U.S. Department of Agriculture) is adopted without change, except for minor typographical or clerical errors, as set forth below.

(Sec. 708, 68 Stat. 912, as amended, 7 U.S.C. 1787.)

NOTE.—The U.S. Department of Agriculture has determined that this document does not have major economic consequences requiring preparation of an impact analysis under Executive Order 12044.

Signed at Washington, D.C. on July 19, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Agricultural Marketing Service.

APPENDIX I—AGREEMENT BETWEEN THE AMERICAN SHEEP PRODUCERS COUNCIL, INC., AND THE U.S. DEPARTMENT OF AGRICULTURE

AGREEMENT

This agreement is between the U.S. Department of Agriculture and the American Sheep Producers Council, Inc., a nonprofit membership corporation organized under the laws of the State of Illinois (hereinafter referred to as "ASPC"), for the conduct by the ASPC of advertising and sales promotion programs and programs to develop and disseminate information on product quality, production management, and marketing improvement, on a national basis, for wool, sheep, or the products thereof. Such activities shall be financed by deductions from incentive payments to sheep producers made under the National Wool Act of 1954, as amended, (hereinafter referred to as "Act") (7 U.S.C. 1781 et seq.) for wool and sheep marketed during the period commencing January 1, 1978, and ending December 31, 1981.

WITNESSETH

Whereas, the U.S. Department of Agriculture has announced an incentive payment program to producers for wool and sheep marketed during 1978 and it is anticipated that similar programs will be instituted for subsequent marketing years (1979-1981) under the Act;

Whereas, section 708 of the Act authorizes the Secretary of Agriculture to enter into agreements with marketing cooperatives, trade associations or other organizations engaged or whose members are engaged in the handling of wool, sheep, or the products thereof, for the purpose of developing and conducting on a national, State, or regional basis, advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing imporvement for wool, sheep, or the products thereof;

Whereas, section 708 of the Act also provides that the agreements may authorize pro rata deductions from the incentive payments made to sheep producers to defray the expenses for such advertising, sales promotion, and information dissemination programs and for the transfer of such monies to the agency designated in the agreement; and

Whereas, such programs for wool, sheep, or the products thereof have been conducted on a national basis since 1955 in accordance with agreements between the Secretary of Agriculture or his designee and the ASPC;

Now therefore, in order for the ASPC to continue such programs financed by pro rata deductions from incentive payments to sheep producers for the marketing years 1978-1981, the parties hereto agree as follows:

1. Whenever incentive payments are made to sheep producers under the Act, the Administrator, Agricultural Stablization and Conservation Service, U.S. Department of Agriculture, will make a pro rata deduction from such payments and at the direction of the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture ("Administrator, AMS"), pay the amount so deducted to the ASPC to provide the funds necessary to defray the expenses of the ASPC authorized under this agreement. Deductions will be made only from incentive payments, if any, which are made to sheep producers for wool and sheep marketed during the years beginning January 1, 1978, and ending December 31, 1981. Deductions from incentive payments for marketings during calendar year 1978 shall be at the rate if 2½ cents per pound of shorn wool marketed and at a comparable rate, as determined by the Administrator, AMS, on unshorn lambs and yearlings (pulled wool) marketed; thereafter, the deductions shall be at such rates as the Administrator, AMS, and the ASPC may agree upon, but in no event shall the rates be in excess of the rates specified for calendar year 1978.

2. For each fiscal year (July 1–June 30) beginning July 1, 1978, until all funds transferred to the ASPC under this agreement are expended for programs authorized under this agreement, the ASPC shall develop and submit for approval to the Administrator, AMS, proposed plans and budgets for (a) advertising and sales promotion programs, and (b) programs to develop and disseminate information on product quality, production management, and marketing improvement it intends to undertake for wool, sheep, or the products thereof. Each submission shall describe the annual plan of operation, commodities to be covered by each program, the proposed media, and other methods which the ASPC intends to use in carrying out such programs and the benefits expected to be derived by sheep producers on a national basis. Amendments in program plans and budgets shall be submitted for approval as specified by the Administrator, AMS. Following approval of the general program and budget by the Administrator, AMS, the Administrator, AMS, may require the ASPC to submit plans for specific projects as well as proposed contracts and agreements for approval before the ASPC enters into agreements with advertising and promotional agencies, radio and television stations, and others to effectuate its programs.

3.The ASPC shall furnish the Administrator, AMS, with a statement of its assets and liabilities as of the end of each fiscal year within 60 days after the end of the fiscal year. The ASPC shall also furnish the Administrator, AMS, with an annual report of is activities and a copy of an audit, prepared by an independent Certified Public Accountant, of its operations for each fiscal year, as soon as possible, but not later than 6 months after the end of the fiscal year, and with such other reports and information as the Administrator, AMS, may from time to time request. The ASPC shall keep accurate records of all its transactions, and these records shall be subject to inspection and audit by representatives of the U.S. Department of Agriculture at all times during regular business hours from the date of this agreement until 3 years after the ASPC has completed performance of all contracts made and obligations incurred hereunder.

4. Either party may terminate this agreement with respect to the continuation of all programs hereunder by delivering, or mailing by registered mail, a written notice of such termination effective on the date to be specified therein, but not earlier than 30 days after giving of such notice. If on or after January 1, 1979, the Administrator, AMS, determines upon petition, or referendum of the sheep producers, or otherwise, that this agreement is no longer favored by the required number of sheep producers, the Administrator, AMS, shall terminate the agreement. After the termination of the agreement by either party, no deductions from incentive payments to producers shall be made to defray the expenses of the ASPC under this or prior agreements except as the Administrator, AMS, determines necessary or desirable to effectuate the termination of ASPC's activities and liquidation of the ASPC's funds.

5. Funds obtained by the ASPC pursuant to prior agreements and unobligated on the date when this agreement becomes effective shall become subject to the terms and conditions of this agreement and be available to finance programs authorized by this agreement.

6. Upon completion of all programs under this and prior agreements or upon termination of this agreement by either party, all funds of the ASPC derived from deductions from incentive payments (including interest earned thereon) remaining unobligated in the hands of the ASPC shall be returned to the U.S. Department of Agriculture, together with a statement explaining the various items which entered into the amount being returned. If the ASPC received funds from sources other than the U.S. Department of Agriculture, pursuant to this agreement, the ASPC shall return to the U.S. Department of Agriculture the same proportion of such unobligated funds as the funds contributed by the U.S. Department of Agriculture bear to all funds received by the ASPC. A final statement of the assets and liabilities of the ASPC shall be furnished to the U.S. Department of Agriculture within 60 days after such completion or termination becomes effective.

7. Any amendments or additions to the charter or bylaws of the ASPC shall be subject to the approval of the Administrator, AMS.

8. The authority reserved to the Administrator, AMS, under the provisions of this agreement may be exercised by an official or officials of the Department of Agriculture designated by the Administrator, AMS.

9. During the performance of this agreement, it is further agreed that the ASPC shall comply with the following provisions:

(a) Equal opportunity. (1) The ASPC will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin in regard to any position for which the employee or applicant is qualified. The ASPC will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to any of the factors enumerated above. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The ASPC agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Administrator, AMS, setting forth the provisions of this nondiscrimination clause.

(2) The ASPC will, in all solicitations or advertisement for employees, state that all qualified applicants will receive considera-

tion for employment without regard to race, color, religion, sex, or national origin.

(3) The ASPC will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Administrator, AMS, advising the labor union or workers' representative of the ASPC's commitments under section 202 of the Executive Order No. 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The ASPC will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules and regulations, and relevant orders of the Secretary of Labor.

(5) The ASPC will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Administrator AMS, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the ASPC's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations, or orders, this agreement may be cancelled, terminated or suspended in accordance with procedures authorized in Executive Order No. 11246, of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The ASPC will include the provisions of paragraphs (1) through (7) in every contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each contractor or vendor. The ASPC will take such action with respect to any contract or purchase order as the Administrator, AMS, may direct as a means of enforcing such provisions including sanctions for noncompliance; *Provided, however,* That in the event the ASPC becomes involved in, or is threatened with, litigation with a contractor or vendor as a result of such direction by the Administrator, AMS, the ASPC may request the United States to enter into such litigation to protect the interest of the United States.

(b) Disabled veterans and veterans of the Vietnam era (applicable to all contracts and subcontracts of $10,000 or more as required by the regulations of the Secretary of Labor). (1) The ASPC will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The ASPC agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(2) The ASPC agrees that all suitable employment openings of the ASPC which exist at the time of the execution of this agreement and those which occur during the performance of this agreement, including those not generated by this agreement and including those occurring at an establishment of the ASPC other than the one wherein the agreement is being performed, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The ASPC further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

(3) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the ASPC from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(4) The reports required by paragraph (2) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office. Such reports shall indicate, (i) the number of individuals hired during the reporting period, (ii) the number of nondisabled veterans of the Vietnam era hired a, (iii) the number of disabled veterans of the Vietnam era hired, and (iv) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The ASPC shall submit such reports within 30 days after the end of each reporting period wherein any performance is made under this agreement. The ASPC shall maintain copies of the reports submitted until 3 years after ASPC has completed performance of all contracts made and obligations incurred under this agreement, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Administrator, AMS, or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(5) Whenever the ASPC becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in Colorado of its name and hiring location. As long as the ASPC is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent agreements. The ASPC may advise the State system when it is no longer bound by this clause.

(6) The provisions of paragraphs (2), (3), (4), and (5) of this clause do not apply to openings which the ASPC proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(7) As used in this clause: (i) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment. It does not include openings which the ASPC proposes to fill from within its own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances, an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(ii) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(iii) "Openings which the ASPC proposes to fill from within its own organization" means employment openings for which no consideration will be given to persons outside the ASPC organization (including any affiliates) and includes any openings which the ASPC proposes to fill from regularly established "recall" lists.

(iv) "Openings which the ASPC proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the ASPC proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the ASPC and representatives of its employees.

(8) The ASPC agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Vietnam Era Veterans Readjustment Assistance Act.

(9) In the event of the ASPC's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(10) The ASPC agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director of the Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Administrator, AMS. Such notice shall state the ASPC's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and rights of applicants and employees.

(11) The ASPC will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the ASPC is bound by terms of the Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(12) The ASPC will include the provisions of this clause in every subcontrct or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The ASPC will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs. Department of Labor, may direct to enforce such provisions, including action for noncompliance.

(c) Handicapped workers (applicable to all contracts and subcontracts of $2,500 or more as required by the regulations of the Secretary of Labor). (1) The ASPC will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The ASPC agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

(2) The ASPC agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(3) In the event of the ASPC's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(4) The ASPC agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the Administrator, AMS. Such notices shall state the ASPC's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for empolyment, and the rights of applicants and employees.

(5) The ASPC will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the ASPC is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(6) The ASPC will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The ASPC will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

(d) Convict labor. In connection with the performance of work under this agreement, the ASPC agrees not to employ any person undergoing sentence of imprisonment except as provided by Pub. L. 89-176, September 10, 1965, (18 U.S.C. 4082 (c)(2)) and Executive Order 11755, December 29, 1973.

(e) Utilization of minority business enterprises. (1) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts or agreements.

(2) ASPC agrees to use its best efforts to carry out this policy in the award of its subcontract to the fullest extent consistent with the efficient performance of the agreement. As used in the agreement, the term "minority business enterprise" means a business at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American Indians, American-Eskimos, and American Aleuts. ASPC may rely on written representation by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

(f) Certification of nonsegregated facilities (applicable to contracts and subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause). By executing this agreement, the ASPC certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. ASPC certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The ASPC agrees that a breach of this certification is a violation of the Equal Opportunity clause of this agreement. As used in this certification the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restraurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis or race, creed, color, or national origin, because of habit, local custom, or otherwise. ASPC further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

Whoever knowingly and willfully makes any false, fictitious, or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001 and 15 U.S.C. 714(a).

10. This agreement shall not become effective until and unless the Administrator, AMS, has determined on the basis of a producer referendum, conducted pursuant to 7 CFR chapter XI, part 1270, subpart A, that at least two-thirds of the total number of eligible producers voting or producers owning two-thirds of the volume of sheep represented in such referendum approve this agreement.

[FR Doc. 78-20549 Filed 7-24-78; 8:45 am]

[3410-05]

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

Subpart—Procedure for the Conduct of Referendums

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service.

ACTION: Final rule.

SUMMARY: This rule establishes the procedure for the conduct of any referendum among U.S. sheep or goat producers to determine whether they approve or disapprove any proposed agreement between the Secretary of Agriculture and any marketing cooperative, trade association, or other group, whose members are engaged in the handling of wool, sheep, mohair, goats or the products thereof. This rule will assure that fair and accurate referendums are held.

EFFECTIVE DATE: July 25, 1978.

ADDRESS: Emergency and Indemnity Programs Division, ASCS, USDA, Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer, 202-447-4428.

SUPPLEMENTARY INFORMATION: The National Wool Act provides that no agreement containing provisions for deductions from incentive payments shall become effective until the Secretary determines that at least two-thirds of the producers approve or

favor such agreement or that producers with two-thirds of the sheep or goats approve or favor such agreement.

The Wool Act further provides that the Secretary may conduct a referendum among producers to ascertain whether they approve or favor such an agreement. An agreement will become effective if two-thirds of the total number of producers, or producers owning two-thirds of the total volume of production represented in the referendum, approve or favor the agreement.

The proposed rule for the conduct of wool and mohair referendums was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25430), and interested persons were invited to submit comments on the proposal by July 13, 1978. No comments were received.

Since the final rule is the same as the proposed rule, and an earlier effective date will not impose any additional burden on any person, good cause exists for making the rule effective on the date of publication in the FEDERAL REGISTER (July 25, 1978).

Accordingly, the proposed rule (7 CFR Part 1270, Subpart—Procedure for the Conduct of Referendums) is adopted without change as set forth below.

(Sec. 708, 68 Stat. 912 as amended (7 U.S.C. 1787).)

NOTE.—The U.S. Department of Agriculture has determined that this document does not have major economic consequences requiring preparation of an impact analysis under Executive Order 12044.

Signed at Washington, D.C., on July 19, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

WILLIAM T. MANLEY,
Deputy Administrator, Agricultural Marketing Service.

Subpart—Procedure for the Conduct of Referendums

Sec.

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Subpart—Procedure for the Conduct of Referendums

§ 1270.1 Referendums.

Referendums for the purpose of determining producer approval of any proposed agreement between the Secretary of Agriculture and any marketing cooperative, trade association, or other producer group whose members are engaged in the handling of wool, sheep, mohair, goats or the products thereof, shall be conducted in accordance with this subpart.

§ 1270.2 Definitions.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service.

(c) "Act" means the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) and any amendments thereto.

(d) "Deputy Administrator" means the Deputy or Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(e) "State ASC Committee" means the group of persons within a State designated by the Secretary to act as the State Agricultural Stabilization and Conservation Committee.

(f) "County ASC Committee" means the group of persons within a county elected to act as the county Agricultural Stabilization and Conservation Committee, pursuant to the regulations governing the election and functioning of the county Agricultural Stabilization and Conservation Committee.

(g) "County ASCS Executive Director" means the person employed by the county ASC committee to execute the policies of the county ASC committee and be responsible for the day-to-day operation of the county ASCS office, or the person acting in such capacity.

(h) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(i) "Agreement" means any agreement between the Secretary of Agriculture and any marketing cooperative, trade association, or other producer group whose members are engaged in the handling of wool, sheep, mohair, goats, or the products thereof, for the purpose of developing and conducting advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement for the commodities handled by its members. The agreement may authorize the Secretary to make deductions from the incentive payments made to producers by the Commodity Credit Corporation for the purpose of funding the programs for advertising and sales promotion and dissemination of information carried out under such agreement.

(j) "Representative period" means a consecutive 12-month period preceding the referendum designated by the Secretary.

(k) "Voting period" means a 12-day period to be announced for voting in the referendum.

§ 1270.3 Supervision of referendums.

The Deputy Administrator shall be in charge of and responsible for conducting each referendum in accordance with this subpart. Each State ASC committee shall be in charge of and responsible for supervising and directing the conduct of the referendum in its State. Each county ASC committee shall be responsible for conducting the referendum in its county. It shall be the duty of the Deputy Administrator and of each committee to conduct each referendum in a fair, unbiased and impartial manner, in accordance with this subpart.

§ 1270.4 Requirements of referendums.

An agreement shall become effective if the Secretary determines that it is approved or favored by (a) at least two-thirds of the eligible producers voting in the referendum or (b) eligible producers who produced at least two-thirds of the volume of sheep or goats, as the case may be, represented in the referendum.

§ 1270.5 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided*, That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1270.6 Public notice.

Advance public notice of the referendum shall be provided without commercial advertising expense by the State and county ASCS offices by means of newspapers, television, county newsletter, county extension agents, etc. Such notice shall announce the voting requirements and other pertinent information.

§ 1270.7 Eligibility.

(a) *Eligible producer.* Each producer who during a single period of at least

30 days during the representative period owned in the United States any sheep or goats, as the case may be, 6 months of age or older is entitled to vote in the referendum. Each producer entity shall be entitled to cast only one ballot in the referendum.

(b) *Proxy voting.* Proxy voting is not authorized except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any producer entity (other than an individual producer), such as a corporation or partnership, may cast a ballot on behalf of such entity. Any individual voting in the referendum on behalf of any producer entity shall certify that he or she is authorized by such entity to take such action.

(c) *Joint and group interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation, engaged in the production of sheep or goats, as the case may be, as a producer entity shall be entitled to only one vote; *Provided, however,* That any member of a group may vote as a producer if he or she is an eligible producer separate from the group, except as provided in paragraph (d) of this section and § 1270.8(c)(2).

(d) *Cooperative association.* A cooperative association may qualify to vote by filing with the Director of the Emergency and Indemnity Payments Division, ASCS, USDA, Washington, D.C. 20250, not later than the date announced by the Department of Agriculture, the following documents: (1) A certified copy of the articles of incorporation and bylaws of the association, and (2) a certified copy of the resolution adopted by the association's board of directors authorizing the association to vote in the referendum. The Emergency and Indemnity Payments Division, ASCS, will send a ballot to each cooperative association which establishes its eligibility to vote. A cooperative association which qualifies to vote shall cast one ballot for all the eligible producers who, on the date the ballot is cast, are members of, stockholders in, or are under contract to sell their wool, sheep, mohair or goats, as the case may be, through the association in the marketing year (January 1 through December 31) in which the referendum is held. The number of votes to be counted for the ballot cast by the cooperative association shall be equal to the number of eligible producer-members in the cooperative association. If a ballot is cast by a cooperative association, the eligible producer-members of such cooperative association shall not otherwise cast ballots in the referendum.

§ 1270.8 Voting.

(a) *Mailing of ballots.* Each ASCS county office will mail ballots to all producers of whom the office has knowledge having ranch or farm headquarters located in its county. A producer who believes that he or she is eligible to vote but has not received a ballot, can obtain a ballot from the State or county ASCS office upon request. The Emergency and Indemnity Payments Division, ASCS, USDA, will mail ballots to all cooperative associations which qualify to vote on behalf of their members and others in accordance with section 1270.7(d) of this subpart.

(b) *Facilities and ballot box.* Each county ASCS office shall provide (1) adequate facilities and space to permit producers to mark their ballots in secret and (2) a sealed ballot box which shall be kept under observation during office hours and secured at all times until the ballots are counted.

(c) *Voting—(1) All producers except cooperative associations.* Voting may be in person or by mail. Each producer shall cast a ballot on form CCC 1160 with the County ASCS office where the producer's farm or ranch headquarters is located. The producer shall provide the following information on the ballot: (i) The date, (ii) a "yes" or "no" vote by marking the appropriate box, (iii) the number of sheep or goats, as the case may be, 6 months of age or older, located in the United States which the producer owned continuously during a single period of at least 30 days during the representative period, (iv) the address of the producer and (v) the signature of the producer. If the ballot is being cast on behalf of a partnership, corporation, or other entity, except a cooperative association, the person casting the ballot must provide the name and address of the producer entity he or she represents, and certify that he or she is authorized to vote on behalf of the producer entity.

(2) *Cooperative associations.* A cooperative association shall return its marked ballot to the Director, Emergency and Indemnity Payments Division, ASCS, USDA, Washington, D.C., 20250, so that it will reach that office not later than the date designated by the Department of Agriculture. Each ballot cast by a cooperative association shall be accompanied by the original and two copies of a listing showing the names and addresses of all producers, otherwise eligible to vote, who on the date the vote is cast are members of, stockholders in, or under contract to sell their wool, sheep, mohair or goats, as the case may be, through the association in the marketing year in which the referendum is held. The producer's names shall be arranged alphabetically, on a separate sheet for each county. The listing for each county shall be headed by the name and address of the cooperative association and show whether the cooperative association was voting "yes" or "no" in the referendum. In preparing the listings, the cooperative association shall show for each producer the number of sheep or goats, as the case may be, 6 months of age or older which he owned continuously in the United States during a single period of at least 30 days during the representative period. After checking the ballots and lists from the cooperative associations for completeness, the lists of producers for whom the cooperative associations have voted will be forwarded to the ASCS State offices concerned for distribution to the respective ASCS county offices. If a producer casts a ballot as an individual and a cooperative association's ballot lists the producer as a member, the producer's vote by the cooperative association shall count and not the individual ballot cast by the producer. If two or more cooperative associations cast ballots for the same producer, and the ballots take the same position with reference to the agreement which is the subject of the referendum, the producer's vote will be counted only once. If they take different positions, the producer's vote will not be counted.

§ 1270.9 Challenged ballots.

A person's eligibility to vote may be challenged by any person. The county executive director shall review all ballots and promptly challenge any ballot of a producer who appears to be ineligible or to have inaccurately indicated the number of sheep or goats, as the case may be, on the ballot.

(a) *Determination of challenges.* Any person whose ballot has been challenged or whose declaration of the number of sheep or goats, as the case may be, on the ballot has been challenged, must prove to the satisfaction of the county executive director that he or she was an eligible producer or that he or she did own the declared number of sheep or goats, as the case may be, during the representative period. Records such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is an eligible producer or that he or she owned the declared number of sheep or goats. The county ASCS executive director shall make his or her determination concerning a challenged ballot and notify the producer of such determination as soon as practicable, but no later than two days after the opening of the ballot box.

(b) *Appeal.* Appeal from a decision by the county ASCS executive director on the eligibility of a person or as to

the number of sheep or goats, as the case may be, owned by the producer, must be made to the county ASC committee within 2 business days after notification of such decision. Any appeal shall be determined by the county ASC committee as soon as practicable, but in all cases not later than 7 days after the opening of the ballot box.

§ 1270.10 Receiving ballots.

A ballot shall be considered to have been received during the voting period (a) if it was cast in the county ASCS office prior to the close of business on the final day of the voting period, or (b) if mailed, the ballot was postmarked not later than midnight on the final day of the voting period and received in the county ASCS office prior to the close of business on the fourth day after the close of the voting period.

§ 1270.11 Canvassing ballots.

(a) *Counting the Ballots.* As soon as possible after opening of the county ASCS office on the fifth day after the close of the voting period, employees of the county ASCS office shall open the ballot box and count the ballots. The ballots shall be tabulated as follows: (1) Number of eligible producers casting valid ballots, and the number of sheep or goats, as the case may be, indicated on their ballots, (2) number of eligible producers favoring the agreement and the number of sheep or goats, as the case may be, indicated on their ballots, (3) number of eligible producers not favoring the agreement and the number of sheep or goats, as the case may be, indicated on their ballots, (4) the number of challenged ballots deemed invalid, and (5) the number of spoiled ballots.

(b) *Spoiled Ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, mutilated, or marked in such a way that it cannot be determined whether it is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the agreement or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this subpart or as the Secretary may direct. The public may witness the opening of the ballot box and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1270.12 County ASCS office report.

(a) *Preliminary report.* The county ASCS office shall notify the State ASCS office by telephone, telegraph, or messenger as to the preliminary results of the referendum as soon as possible. Each county ASCS office may release the unofficial results of the referendum in its county after the report has been given to the State ASCS office.

(b) *Final report.* Within 7 days after the opening of the ballot box, each county ASCS office shall transmit a written summary certified by the county ASCS executive director of the final results of the referendum in its county to the State ASCS office. Any appeal concerning a challenged ballot shall be resolved by the county ASC committee prior to the date of the final report. A copy of the summary shall be posted for 30 days in the county ASCS office in a conspicuous place accessible to the public and a copy shall be kept on file in the county office for a period of at least 12 months.

§ 1270.13 State ASCS office report.

(a) *Preliminary report.* Each State ASCS office shall send to the Deputy Administrator by telegraph as soon as possible a summary of the preliminary results of the referendum received from the county ASCS offices within its State. Each State ASCS office may release the unofficial results of the referendum in its State after its report has been sent to the Deputy Administrator.

(b) *Final report.* Within 10 days after the opening of the ballot boxes in the county ASCS offices each State ASCS office shall transmit to the Deputy Administrator a written summary of the final results of the referendum received from the county ASCS offices within the State. Such summary shall be prepared in triplicate and certified by the State ASCS executive director. The original and one copy of the summary shall be sent to the Deputy Administrator. One copy of the summary shall be maintained in the State ASCS office where it shall be availabe for public inspection for a period of not less than 12 months.

§ 1270.14 Results of referendums.

(a) The Deputy Administrator shall prepare and submit to the Secretary or his designee a report of the results of the referendum. The official results of the referendum shall be published in the FEDERAL REGISTER. State summaries and related papers shall be available for public inspection in the office of the Deputy Administrator, State and County Operations, ASCS, U.S. Department of Agriculture, Room 243-W, Administration Building, Washington, D.C.

(b) If the Deputy Administrator or the Secretary deems it necessary, the report of any State or county shall be reexamined and checked by such persons that may be designated by the Deputy Administrator or the Secretary.

§ 1270.15 Disposition of ballots and records.

The county ASCS executive director shall place the voted ballots, challenged ballots found to be ineligible, spoiled ballots, and county summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the county ASCS executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator by the end of such time, the records shall be destroyed.

§ 1270.16 Suspension and termination of agreements.

The Secretary of Agriculture may conduct a referendum at any time, and shall hold a referendum on request of (a) producers representing 10 percent or more of the number of producers voting in, or (b) producers owning 10 percent of the sheep or goats, as the case may be, represented in the referendum approving the agreement, to determine whether such producers favor the termination or suspension of the agreement. The Secretary shall suspend or terminate such agreement 6 months after the Secretary determines that suspension or termination of the agreement is approved or favored by a majority of the eligible producers voting in such referendum or who produced more than 50 percent of the volume of the sheep or goats, as the case may be, produced by the producers voting in the referendum.

§ 1270.17 Instructions and forms.

The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the referendum.

[FR Doc. 78-20550 Filed 7-24-78; 8:45 am]

[3410-05]

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

Subpart—Procedure for the Conduct of Referendums

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service.

ACTION: Notice of wool producer referendum.

SUMMARY: This document announces a referendum among wool

producers to determine if they approve a proposed agreement between the American Sheep Producers Council, Inc. ASPC, and the U.S. Department of Agriculture. The proposed agreement appears elsewhere in this issue of the FEDERAL REGISTER. This notice prescribes the voting period of the referendum. It also sets forth the representative period during which a producer must have owned sheep (6 months old or older) in the United States for at least 30 consecutive days in order to be eligible to vote.

DATES: Voting period—August 21 through September 1, 1978. Representative period—January 1 through December 31, 1977.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald Schiermeyer, 202-447-4428.

ADDRESS: Emergency and Indemnity Programs Division, ASCS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: A proposed rule for conducting referendums as authorized by the National Wool Act of 1954, as amended, was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25430), and a proposed agreement between the American Sheep Producers Council, Inc., and the U.S. Department of Agriculture was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27845). As required by section 708 of the act, the agreement will be effective only if approved by wool producers who vote in a referendum. For approval of the agreement, two-thirds of the producers voting must approve the agreement or producers with two-thirds of the production represented in the referendum must approve the agreement.

Notice is hereby given of a referendum to consider the proposed agreement. The voting period will be August 21 through September 1, 1978. Only those producers who owned sheep (6 months old or older) in the United States for at least 30 consecutive days during 1977 are eligible to vote.

Voting will be conducted through county offices of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

Issued at Washington, D.C., this 19th day of July 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

WILLIAM T. MANLEY,
Deputy Administrator, Agricultural Marketing Service.

[FR Doc. 78-20551 Filed 7-24-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 116—REQUIREMENT FOR FLOOD INSURANCE—SBA FINANCIAL ASSISTANCE

Floodplain Management and Wetland Protection; Implementation Executive Orders 11988 and 11990

AGENCY: Small Business Administration.

ACTION: Notice of extension of comment period before interim rule becomes effective.

SUMMARY: The time for comment on this interim rule, published on May 24, 1978, at 43 FR 22298, expired on June 24, 1978. The interim rule was to become effective on July 24, 1978. Because this regulation is likely to cause additional comments by Federal agencies, and because additional time will be required to make necessary changes, the effective date is extended to September 24, 1978.

DATES: The effective date of the interim rule is extended to September 24, 1978.

ADDRESS: Associate Administrator for Finance and Investment, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 202-653-6470.

Dated: July 19, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-20497 Filed 7-24-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2511]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

G C Services Corp., et al.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This order reopens the proceeding and modifies the cease and desist order issued April 16, 1974, 39 FR 17100, by substituting for paragraph 6 of the original order one that extends the time period postdated checks may be held from 15 days to 60 days, if specified requirements are satisfied before checks are deposited.

DATES: Decision issued April 16, 1974. Modifying order issued June 21, 1978.*

FOR FURTHER INFORMATION CONTACT:

Albert H. Kramer, Director, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Room 488, Washington, D.C. 20580, 202-523-3727.

SUPPLEMENTARY INFORMATION: In the matter of G C Services Corp., et al. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, appear at 39 FR 17100 and remain unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The order modifying order to cease and desist, is as follows:

ORDER REOPENING PROCEEDING AND MODIFYING ORDER TO CEASE AND DESIST

By petition filed December 29, 1977, pursuant to rule 3.72(b)(2), petitioner G C Services Corp. has requested the Commission to modify its order of April 16, 1974, to permit respondents to hold postdated checks for an unlimited period of time as long as certain requirements are met. The Director, Bureau of Consumer Protection, has filed an answer wherein he advises that he opposes the relief originally sought by petitioner but does not oppose alternate relief which would permit respondents to hold postdated checks for a maximum of 60 days as long as certain additional requirements are satisfied. The Director, Bureau of Consumer Protection, further advises in his answer that this alternative relief has been discussed with respondents and they do not object.

In support of their proposed modification respondents rely on the recent passage of Pub. L. 95-109, the Fair Debt Collection Practices Act, 15 U.S.C. 1601 et seq. Section 808 of the act (15 U.S.C. 1692f) prohibits a debt collector from using any "unfair or unconscionable" means to collect or attempt to collect any debt. Without limiting the general application of this, the act continues to specify certain specific violations of the section. With regard to the use of postdated checks, the act prohibits debt collec-

*Copies of the modifying order filed with the original document.

tors from: (1) Accepting a check postdated by more than 5 days unless the alleged debtor is notified in writing of the debt collector's intent to deposit such check 3 to 10 business days prior to deposit; (2) soliciting any postdated check for the purposes of threatening or instituting criminal prosecution; and (3) depositing or threatening to deposit any postdated instrument prior to the date on the instrument.

Respondents request that the Commission modify the order to permit GCSC to utilize postdated checks in a manner consistent with the act. As an additional safeguard, GCSC would provide written notification of each of debtors' rights, pursuant to the act, with regard to postdated checks as noted above.

The Bureau in its answer to the petition agrees that the proceeding should be reopened. The answer submits that the order should be modified to permit alleged debtors and respondents greater flexibility in the use of postdated checks. However, the Bureau suggests an alternative modification to extend the period respondents could accept postdated checks from 15 to 60 days with the additional safeguard that 10 days prior to deposit respondents obtain or make good faith efforts to obtain permission from the alleged debtor to deposit the check. If they do not meet this requirement, they will be unable to deposit the check. Nothing in the order or modification shall limit respondents' obligations to otherwise fully comply with the requirements of the Fair Debt Collection Practices Act.

The Commission, having carefully considered the petition and answer thereto, has determined that the alternate relief as set forth in the answer be granted. The modification suggested by the Bureau would allow respondents greater flexibility to use postdated checks while insuring that alleged debtors are adequately protected. Respondents have alleged a legitimate benefit to consumers and competitive need for extending its ability to use postdated checks. However, respondents' proposed modification would obligate it to do little more than the act already requires. The Commission is persuaded that extension of the time limit and the permission requirements for holding postdated checks would provide consumers and respondents with greater flexibility without unduly jeopardizing alleged debtors' rights.

Accordingly, *it is ordered*, That the proceeding be, and hereby is reopened for the limited purpose of modifying paragraph 6 of the Commission's order of April 16, 1974.

Further, *it is ordered*, That the order to cease and desist be, and hereby is modified by striking paragraph 6 and substituting therefor the following:

6. Receiving from alleged debtors postdated checks which will be held by respondents or their representatives for more than 60 days after receipt, *Provided*, That, for any postdated check held for more than 15 business days, no such postdated check shall be deposited unless respondents not more than 10 nor less than 3 business days prior to such deposit: (1) Obtain permission to deposit such check from the alleged debtor, or (2) make a good faith effort to contact and obtain permission from the alleged debtor. A good faith effort shall consist of three telephone calls to the alleged debtor's known telephone contact, unless circumstances would make such efforts unreasonable. Failure to make contact would not relieve respondents of the obligation to notify in writing the alleged debtor of respondents' intent to deposit such check. Nothing in this order shall limit any duty of respondents to comply fully with the provisions of the Fair Debt Collection Practices Act, 15 U.S.C. 1692.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-20515 Filed 7-24-78; 8:45 am]

[6560-01]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FAP 8H5182/R37; FRL 931-5]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

O-Ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR 193 and 561 by establishing food and feed additive tolerances for residues of the insecticide *O* - ethyl *O* - [4 - (methyl- thio)phenyl] *S* - propyl phosphorodi- thioate. The amendments to the regulations were requested by Mobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject insecticide in cottonseed oil and cottonseed hulls.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-9425.

SUPPLEMENTARY INFORMATION: On May 3, 1978, notice was given (43 FR 19077) that Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120, had filed a petition (FAP 8H5182) with the EPA. This petition proposed that 21 CFR 193 and 561 be amended by establishing regulations permitting residues of the insecticide *O* - ethyl *O* - [4 - (methyl- thio)phenyl] *S* - propyl phosphorodi- thioate and its cholinesterase-in- hibiting metabolites in the commodity cottonseed oil (21 CFR 193) and the commodity cottonseed hulls (21 CFR 561) with tolerance limitations of 1 part per million (ppm) as the result of application of the subject insecticide to growing cotton. (A related document establishing tolerances for residues of the subject insecticide in or on cottonseed and eggs, meat, milk, and poultry appears elsewhere in today's FEDERAL REGISTER. The tolerances in eggs, meat, milk, and poultry will be adequate to cover secondary residues as delineated in 40 CFR 180.6(a)(2).) No comments were received by the Agency in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136(a) et seq.). The toxicological data considered in support of the proposed tolerances included 2-year rat and dog feeding studies with no-observable effect levels (NOEL) of 6 ppm and 10 ppm, respectively; a three-generation rat reproduction study with an NOEL greater than 120 ppm; a 22-month mouse feeding/oncogenicity study with an NOEL of 2.5 ppm; a hen neurotoxicity and a

rabbit teratology study (both negative); and an acute oral toxicity test in rats: lethal dose (LD_{50}) of 200 milligrams (mg)/kilogram (kg) of body weight (bw). The lifetime studies in rats and mice showed no oncogenic potential at 250 ppm and 400 ppm, respectively, the highest levels fed.

Based on the 2-year dog-feeding study with an NOEL of 10 ppm and using a safety factor of 10, the acceptable daily intake (ADI) for man is 0.025 milligram (mg)/kilogram (kg) of body weight (bw)/day. This is a new chemical with no previously established permanent tolerances. However, food and feed additive tolerances for residues of the subject pesticide in cottonseed oil and cottonseed hulls at 1 ppm were established in connection with an experimental program which expired June 3, 1978. The proposed food and feed additive tolerances as well as the related pesticide tolerances would theoretically represent 0.32 percent of the ADI. The theoretical maximal residue contribution (TMRC) in the human diet from these tolerances is 0.0048 mg/day.

The metabolism of the subject insecticide is adequately understood, and an adequate analytical method (gas chromatography equipped with thermionic detection) is available for enforcement purposes. No actions are currently pending against registration of the subject insecticide, nor are any other considerations involved in establishing the proposed tolerances. Therefore, the regulations are being established as proposed.

Any person adversely affected by this regulation may, by August 24, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective July 25, 1978, 21 CFR 193 and 561 are amended as set forth below.

Dated: July 18, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

1. Part 193, subpart A, § 193.212 is revised in the heading and text to read as follows:

§ 193.212 *O*-Ethyl *O*-[4-(methylthiophenyl] *S*-Propylphosphorodithioate.

A tolerance of 1 part per million is established for residues of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate and its cholinesterase-inhibiting metabolites in cottonseed oil resulting from application of the pesticide to growing cotton.

2. Part 561, § 561.233 is revised in the heading and text to read as follows:

§ 193.233 *O*-Ethyl *O*-[4-(methylthiophenyl] *S*-propylphosphorodithioate.

A tolerance of 1 part per million is established for residues of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate and its cholinesterase-inhibiting metabolites in cottonseed hulls resulting from application of the pesticide to growing cotton.

[FR Doc. 78-20567 Filed 7-24-78; 8:45 am]

[4510-27]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document brings up to date the lists of statutes in parts 1 and 5 concerning the Davis-Bacon and related acts.

DATES: This document, which is informational in character, is effective July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

George E. Rivers, Counsel, General Legal Services, Office of the Solicitor, Department of Labor, Room N-2458, NDOL, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8303.

SUPPLEMENTARY INFORMATION: Many of the laws currently listed in the appendix A of part 1 and in § 5.1 of part 5, have been repealed, recodified, or amended, and several more have been added since the last revision of these lists. This document brings these lists up to date. These lists are informational in character and the absence of any such law does not, under 29 CFR § 1.1(b) or under 29 CFR § 5.1, relieve affected persons of the duty to comply with the law.

This document was prepared under the direction and control of Ronald G. Whiting, Associate Solicitor of General Legal Services, Office of the Solicitor, Department of Labor, Room N-2464, NDOL, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8286.

1. Appendix A of Part 1, Title 29, Code of Federal Regulations, is revised as follows:

APPENDIX A

STATUTES RELATED TO THE DAVIS-BACON ACT REQUIRING PAYMENT OF WAGES AT RATES PREDETERMINED BY THE SECRETARY OF LABOR

1. The Davis-Bacon Act (secs. 1-7, 46 Stat. 1494, as amended; Pub. L. 74-403, 40 U.S.C. 276a-276a-7).

2. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).

3. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).

4. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86-372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).

5. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).

6. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).

7. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).

8. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).

9. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1969 (sec. 423 as added by Pub. L. 91-230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92-318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.

10. The Federal-Aid Highway Act of 1956 (sec. 108(b), 70 Stat. 378, recodified at 72 Stat. 895; 23 U.S.C. 113(a), as amended), see particularly the amendments in the Federal-Aid Highway Act of 1968 (Pub. L. 90-495, 62 Stat. 815).

11. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

12. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

13. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5)).

14. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 88 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

15. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

16. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

17. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

18. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

19. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

20. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

21. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 308(h)(2) thereof, 88 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

22. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

23. Health Professions Education Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256, 42 U.S.C. 293a(c)(7)).

24. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 364; 42 U.S.C. 296a(b)(5)).

25. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

26. Safe Drinking Water Act (sec. 2(a), see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j-9(e)).

27. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o-3(b)(1)(H)).

28. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

29. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

30. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

31. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

32. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c-3).

33. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

34. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

35. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

36. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

37. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

38. Older Americans Act of 1965 (sec. 502, Pub. L. 89-73, as amended by sec. 501, Pub. L. 93-29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

39. Public Works and Economic Development Act of 1965 (sec. 712, 79 Stat. 575 as amended; 42 U.S.C. 3222).

40. Juvenile Delinquency Prevention Act (sec. 1, 86 Stat. 536; 42 U.S.C. 3884).

41. New Communities Act of 1968 (sec. 410, 82 Stat. 516; 42 U.S.C. 3909).

42. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

43. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

44. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

45. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

46. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

47. Energy Conservation and Production Act (sec. 451(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

48. Solid Waste Disposal Act (sec. 2, 90 Stat. 2828; 42 U.S.C. 6979).

49. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

50. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

51. Highway speed ground transportation study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

52. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

53. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281i).

54. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4).

NOTE.—Repealed Dec. 9, 1969 and labor standards incorporated in sec. 1-1431 of the District of Columbia Code).

55. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89-694, but not in the United States Code).

56. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87-328) (considered a statute for purposes of the plan but not in the United States Code).

2. Section 5.1 of Part 5 is revised as follows:

§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated in order to coordinate the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration and such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon him under Reorganization Plan No. 14 of 1950:

1. The Davis-Bacon Act (sec. 1-7, 46 Stat. 1494, as amended; Pub. L. 74-403, 40 U.S.C. 276a-276a-7).

2. Copeland Act (40 U.S.C. 276c).

3. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).

4. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).

5. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).

6. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86-372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).

7. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).

8. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).

9. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).

10. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).

11. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1969 (sec. 423 as added by Pub. L. 91-230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92-318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is entended to all programs administered by the Commissioner of Education.

12. The Federal-Aid Highway Act of 1956 (sec. 108(b), 70 Stat. 378, recodified at 72 Stat. 895; 23 U.S.C. 113(a), as amended), see particularly the amendments in the Federal-Aid Highway Act of 1968 (Pub. L. 90-495, 62 Stat. 815).

13. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

14. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

15. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5).

16. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 88 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

17. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

18. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

19. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

20. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

21. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

22. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

23. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 308(h)(2) thereof, 88 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

24. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

25. Health Professions Educational Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256, 42 U.S.C. 293a(c)(7)).

26. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 364; 42 U.S.C. 296a(b)(5)).

27. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

28. Safe Drinking Water Act (sec. 2(a), see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j-9(e)).

29. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o-3(b)(1)(H)).

30. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

31. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

32. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

33. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

34. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c-3).

35. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

36. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

37. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

38. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

39. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

40. Older Americans Act of 1965 (sec. 502, Pub. L. 89-73, as amended by sec. 501, Pub. L. 93-29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

41. Public Works and Economic Development Act of 1965 (sec. 712; 79 Stat. 575 as amended; 42 U.S.C. 3222).

42. Juvenile Delinquency Prevention Act (sec. 1, 86 Stat. 536; 42 U.S.C. 3884).

43. New Communities Act of 1968 (sec. 410, 82 Stat. 516; 42 U.S.C. 3909).

44. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

45. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

46. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

47. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

48. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

49. Energy Conservation and Production Act (sec. 451(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

50. Solid Waste Disposal Act (sec. 2, 90 Stat. 2828; 42 U.S.C. 6979).

51. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

52. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

53. Highway Speed Ground Transportation Study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

54. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

55. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281i).

56. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4). NOTE.—Repealed December 9, 1969, and labor standards incorporated in sec. 1-1431 of the District of Columbia Code).

57. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89-694, but not in the United States Code).

58. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87-328) (considered a statute for purposes of the plan but not in the United States Code).

Signed at Washington, D.C., on this 19th day of July 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-20573 Filed 7-24-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[PP 8F2063/R160; FRL 931-4]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O-Ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate. The amendment to the regulations was requested by Hobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject insecticide on cottonseed and in eggs, meat, milk, or poultry.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (WH-567). Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-9425.

SUPPLEMENTARY INFORMATION: On April 28, 1978, notice was given (43 FR 16246) that Hobay Chemical Corp. Chemagro Agricultural Division, P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64210, had filed a pesticide petition (PP 8F2063) with the EPA. This petition proposed that 40 CFR 180 be amended to establish tolerances for combined residues of the insecticide *O*-ethyl *O*-[4-(methylthio)phenyl] *S*-propyl phosphorodithioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities cottonseed at 0.5 part per million (ppm) and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.01 ppm; and milk and eggs at 0.001 ppm. (A related document establishing food and feed additive tolerances for residues of the subject insecticide appears elsewhere in today's FEDERAL REGISTER.) No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included 2-year rat and dog feeding studies with no-observable effect levels (NOEL) of 6 ppm, and 10 ppm, respectively; a three-generation rat reproduction study with an NOEL greater than 120 ppm; a 22-month mouse feeding/oncogenicity study with an NOEL of 2.5 ppm; a hen neurotoxicity and a rabbit teratology study (both negative), and an acute oral toxicity study in the rat: lethal dose (LO_{50}) of 200 milligrams (mg)/kilogram (kg) of body weight (bw). The lifetime studies in rats and mice showed no oncogenic potential at 250 ppm and 400 ppm, respectively, the highest levels fed.

Based on the 2-year dog-feeding study with an NOEL of 10 ppm and using a safety factor of 10, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. This is a new chemical with no previously established permanent tolerances. However, food and feed additive tolerances for residues of the subject insecticide in cottonseed oil and cottonseed hulls at 1 ppm were established in connection with an experimental program which expired June 3, 1978. The proposed tolerances would theoretically represent 0.32 percent of the ADI. The theoretical maximal residue contribution (THRC) in the human diet from these tolerances is 0.0048 mg/day.

The metabolism of the subject insecticide is adequately understood, and an adequate analytical method (gas chromatography equipped with thermionic detection) is available for enforcement purposes. No actions are currently pending against registration of the subject insecticide, nor are any other considerations involved in establishing the proposed tolerances. The tolerances established by amending 40

CFR 180 will be adequate to cover residues that would result in eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.5 ppm, 0.01 ppm, and 0.001 ppm, established by amending 40 CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, by August 24, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on July 25, 1978, part 180 is amended as set forth below.

Dated: July 18, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Part 180, subpart C, is amended by adding the new § 180.374 to read as follows:

§ 180.374 *O* - Ethyl *O* - [4-(methylthio) phenyl] *S*-propyl phosphorodithioate; tolerances for residues.

Tolerances are established for combined residues of the insecticide *O*-ethyl *O*-[*4-(methylthio) phenyl*] *S*-propyl phosphorodithioate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.01
Cattle, mbyp	0.01
Cattle, meat	0.01
Cottonseed	0.5
Eggs	0.001
Goats, fat	0.01
Goats, mbyp	0.01
Goats, meat	0.01
Hogs, fat	0.01
Hogs, mbyp	0.01
Hogs, meat	0.01
Horses, fat	0.01
Horses, mbyp	0.01
Horses, meat	0.01
Milk	0.001
Poultry, fat	0.01
Poultry, mbyp	0.01
Poultry, meat	0.01
Sheep, fat	0.01
Sheep, mbyp	0.01
Sheep, meat	0.01

[FR Doc. 78-20568 Filed 7-24-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Ruby Lake National Wildlife Refuge, Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule reestablishes special regulations governing boating use at the Ruby Lake National Wildlife Refuge, Nevada. The previous regulations which were published in the FEDERAL REGISTER on April 21, 1978, were declared invalid by the United States District Court for the District of Columbia. The intent is to establish boating regulations consistent with the primary purposes for which the refuge was established by setting opening dates, no wake zones, horsepower limits, and speed limit restrictions for boats.

EFFECTIVE DATES: Effective on date of publication through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Fowler, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, 18th and C Streets NW., Washington, D.C. 20240 telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: The primary author of this document is Ronald L. Fowler.

BACKGROUND

Final regulations were published in the FEDERAL REGISTER on April 21, 1978 (43 FR 16981). On June 29, 1978, a lawsuit was filed against the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks, and the Director, Fish and Wildlife Service. *Defenders of Wildlife, et al.* v. *Andrus, et al.*, Civil Action No. 78-1210. On June 30, the district court issued a temporary restraining order enjoining the defendants from permitting the use of motorboats (except those with electric motors). Following 2 days of trial on the matter, the district court on July 11 declared the April 21 regulations invalid because the Secretary failed to make a finding that the permitted recreational use would not be inconsistent with the primary purpose for which the refuge was established, and on July 14 ordered that the Department issue regulations consistent with the purposes for which the refuge was established.

The Ruby Lake Migratory Waterfowl Refuge (now known as Ruby Lake National Wildlife Refuge) was established by Executive Order No. 7923 dated July 2, 1938 ". . . for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife. . . ." The Refuge Recreation Act of 1962 (16 U.S.C. 460k), authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area is established. In addition the Refuge Recreation Act requires that before any area of the Refuge System is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that (1) such recreational use will not interfere with the primary purposes for which the area was estabished, and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

DISCUSSION

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Ruby Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's environmental impact assessment published in June 1976, public comment received on earlier proposed rules, and public comment on the assessment. Funds are available for the development, operation, and maintenance of the types of recreation permitted by these regulations.

Excessive water depths lead to a reduction of emergent vegetation required for optimum nesting by redheads and canvasbacks, reduced growth of desirable waterfowl food plants, and decreased availability of soil nutrients. To correct this problem, it is necessary to draw the unit down approximately every 8 years. The next drawdown is scheduled for 1979. This action can be accomplished so that the bass and trout fishery will be fully protected; however, some boating will have to be foregone during the drawdown year. Also, a portion of the excess water being held in the South Sump is critical for maintaining migratory bird habitat in the North Sump. Therefore, it will be necessary on an annual basis to utilize some of this excess water in the North Sump.

While the Administrative Procedure Act, 5 U.S.C. § 553, requires notice of proposed rulemaking to be published in the FEDERAL REGISTER, such notice may be foregone when the agency finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In addition, it is the policy of the Department to allow a 30-day period between the publication of a final rule and the date it becomes effective. Since the previous special regulations were declared invalid, regulations governing boating activity are required immediately. Therefore, notice and public procedure is impracticable. Public procedure is also unnecessary since there have been four public hearings held in Nevada on the issue and a public comment period on earlier proposed rules. Further, since the permitted degree of boating activity is compatible with the purposes for which the refuge was established, it would be contrary to the public interest to delay the implementation of the regulations. The Service has determined that there is good cause and it is in the best interest of the public to make this rule effective immediately upon publication.

As provided by 50 CFR 26.33, the Service hereby issues the following special regulations:

§ 26.34 Special Regulations concerning public access, use and recreation for individual national wildlife refuges.

NEVADA

RUBY LAKE NATIONAL WILDLIFE REFUGE

Beginning on July 25, 1978 and continuing until December 31, 1978, boats will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. The South Sump will be divided into zones, which will be identified by signs and delineated on maps available from the Refuge Manager and on maps posted at the boat landings.

Copies of the maps can also be obtained from: The Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oreg. 97232; and (2) the Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, Calif. 95825. The zones and the regulations applicable to each zone are as follows:

Zone 1—Motorless Boating Area. Period of use: Date of publication through December 31. Boats without motors or boats with electric motors will be permitted. Motorless boats can go into zones 2 and 3, when these zones are open to boating.

Zone 2—Powerboat Area. Period of use: Date of publication to December 31. This zone will be open to all boats with no horsepower limitations after August 1. Prior to August 1, boats with motors of 10 horsepower or less are permitted. No boat may exceed 20 mph except on the designated waterski area. On critical areas identified by signs, no boats may exceed 5 mph (no wake). Water-skiing will be permitted from 10 a.m. to 5 p.m. daily on the designated water-ski area only. No more than three (3) boats pulling water-skiers will be permitted to operate at any one time. If more than three water-ski boats are operating at any one time, the fourth boat and subsequent boats to be put in operation will be in violation.

Zone 3—Powerboat Area. Period of use: August 1 to December 31. This zone will be open to all boats with no horsepower limitations. No boat may exceed 20 mph. On critical areas identified by signs, no boats may exceed 5 mph (no wake).

The Refuge Manager shall close any or all of the Ruby Lake National Wildlife Refuge to public access and use, without advance notice, in the event of an emergency or to protect the resources of the area in accordance with § 25.21. In addition, the Refuge Manager shall impose a 10 horsepower restriction on boat motors in any zone when in his judgment the larger horsepower motors appear to be causing damage to the resource. Appeal of the Refuge Manager's decisions are permitted in accordance with § 25.44.

Boats may be launched only from landings approved and so designated by the Refuge Manager.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal which would require the preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 19, 1978.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-20512 Filed 7-20-78; 11:23 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wisconsin, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 18, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, area code 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The public hunting of deer is permitted on the Horicon National Wildlife Refuge, Wis., with shotgun only, and only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Deer hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20519 Filed 7-24-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wisconsin, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 16, 1978, through November 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The public hunting of deer is permitted on the Horicon National Wildlife Refuge, Wisconsin, with bow and arrow only, and only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Deer hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20521 Filed 7-24-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wis., to Pheasant and Rabbit Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to pheasant and rabbit hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 28, 1978 through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, Route 2, Mayville, Wis. 53050, 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; upland game, for individual wildlife refuge areas.

The public hunting of pheasants and rabbits is permitted on the Horicon National Wildlife Refuge, Wis., only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Pheasant and rabbit hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 14, 1978.

JOHN E. TOLL,
Refuge Manager.

[FR Doc. 78-20520 Filed 7-24-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Pool 10 Lacreek National Wildlife Refuge, South Dakota to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: July 1, 1978 through March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551 or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on Pool 10 and adjacent streams, Lacreek National Wildlife Refuge, only on those areas designated by public fishing signs as being open to fishing. These areas comprising of about 600 acres are delineated on maps available at the refuge headquarters and at the office of the Area Manager, Federal Building, Pierre, S. Dak. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fishermen must use designated parking areas and/or boat landings.

2. No motors may be used on boats or canoes in the Refuge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

ROBERT H. BRASHEARS,
Acting Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

JULY 14, 1978.

[FR Doc. 78-20574 Filed 7-24-78; 8:45 am]

[3410-11]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—PROHIBITIONS

Expansion of Scope and Areas Designated by Orders To Include Wild and Scenic Rivers System

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: Management plans for components of the National Wild and Scenic Rivers System establish management practices for the administration of the areas in a manner compatible with the objectives of the legislation establishing the system. At times, these objectives require that limits be placed on the amount and type of use that can be permitted on the areas. This regulation expands the scope in subpart A to include components of the National Wild and Scenic Rivers System. Subpart B is expanded to provide for the issuance of orders which will control the amount of use on com-

ponents of the National Wild and Scenic Rivers System.

EFFECTIVE DATE: July 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Evans, Law Enforcement Specialist, Fiscal and Accounting Management, U.S. Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone 202-447-7850.

JULY 21, 1978.

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research, and Education.

SUPPLEMENTARY INFORMATION: On May 31, 1978, a notice of proposed rulemaking regarding additions to sections 261.1 and 261.58 to, title 36, chapter II of the Code of Federal Regulations was published in the FEDERAL REGISTER (43 FR 23610). Interested persons were asked to comment by June 30, 1978. One comment was received and is available for public inspection in room 4017, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

The one comment received opposed the rule because it contended the Forest Service did not have jurisdiction on the lands and waters in the Hells Canyon National Recreation Area, primarily the Snake Wild and Scenic River.

Portions of the Snake River are included in the Wild and Scenic Rivers System to which these additions to sections 261.1 and 261.58 apply. The Federal Government has the authority to regulate private conduct within the boundaries of wild and scenic rivers. This power is based upon the broad powers of the Congress to regulate under the Commerce and necessary and proper clauses of the Constitution (art. I, sec. 8). Congress utilized its constitutional powers in enacting the Wild and Scenic Rivers Act. Section 10(d) of the act (16 U.S.C. 1281(d)), allows the Secretary of Agriculture to use general statutory authorities relating to the national forests in such a manner as he deems appropriate to carry out the purposes of the act. These general authorities are found at 16 U.S.C. 551 and allow regulation of the occupancy and use of national forest lands. In order to protect public lands, the Federal Government also has jurisdiction to regulate conduct on State and private lands within the boundaries of a national forest, wild and scenic river, or national recreation area based upon the property clause of the Constitution (art. IV, sec. 3).

The Forest Service has the responsibility under section 10(a) of the Wild and Scenic Rivers Act to administer each component of the Wild and Scenic Rivers System in such a manner as to protect and enhance the values of the river. In such administration primary emphasis must be given to protecting the esthetic, scenic, historic, archaeological, and scientific features. It is our determination that the regulatory authority established by this amendment to part 261 is necessary to carry out this statutory responsibility.

No changes have been made in the proposed rules published on May 31, 1978.

These actions were taken pursuant to the requirements of the Administrative Procedures Act (5 U.S.C. 553) adopted by this Department as a matter of policy on July 24, 1971 (36 FR 13804).

As a result of this process, the following additions in 36 FR, chapter II are made:

1. Section 261.1(a)(4) is amended as follows:

§ 261.1 Scope.

(a) * * *

(4) An act or omission occurs within the designated boundaries of a component of the National Wild and Scenic Rivers System.

* * * * *

2. Section 261.58(z) is added to read as follows:

§ 261.58 Occupancy and use.

* * * * *

(z) Entering or being on lands or waters within the boundaries of a component of the National Wild and Scenic Rivers System.

(30 Stat. 35, as amended (16 U.S.C. 551); 82 Stat. 916 (16 U.S.C. 1281(d)); 89 Stat. 1121 (16 U.S.C. 460gg-7).)

FR Doc. 78-20716 Filed 7-24-78; 10:13 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY PRODUCTS INSPECTION, DEPARTMENT OF AGRICULTURE

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS, REINSPECTION AND PREPARATION OF PRODUCTS

Nitrates, Nitrites, and Ascorbates (or Isoascorbates) in Bacon

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal meat inspection regulations concerning the use of nitrites in bacon provide that lots of bacon will be retained if confirmable levels of nitrosamines are found. The regulations further provide that lots of bacon subsequently produced will not be retained because of nitrosamines if certain processing adjustments are made and samples from five consecutive normal sized lots establish that the product being produced contains no confirmable levels of nitrosamines at the 10 parts per billion (PPB) level currently and at the 5 PPB level within 1 year. There has been some confusion as to the provisions of the regulations. The provisions were intended to provide that the tests shall be conducted by the Department but that if test results are furnished by the establishment, such test results will be utilized in making the determination concerning the nitrosamine content of the product. The regulations are clarified to express more clearly this intent; delete the provision concerning the future confirmation level of nitrosamines at 5 PPB; and make certain other clarifying changes.

EFFECTIVE DATE: July 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Division, Food Safety and Quality Service, U.S. Department of Agriculture, Room 202, Annex Building, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION: On May 16, 1978, there was published in the FEDERAL REGISTER a document (43 FR 20992-20995) relating to nitrates, nitrites, and ascorbates (or isoascorbates) in bacon. This included provisions in § 318.7(b) of the regulations (9 CFR 318.7(b)) which state that:

> The bacon shall no longer be retained if the operator of the establishment makes adjustments in the processing of the product and provides data based on laboratory analyses of samples from five consecutive normal sized lots that establishes that the product being produced contains no confirmable levels of nitrosamines.

There has been some confusion concerning who is responsible for conducting such tests, and as to the particular bacon to be retained. The provisions were intended to provide that the tests shall be conducted by the Department, but that if test results are furnished by the establishment, such test results will be utilized in making the determination concerning the nitrosamine content of the lots in question. The regulations are clarified

to express clearly the intent in these regards and to make certain other clarifying changes.

The provisions concerning a future reduction with respect to testing for confirmable levels of nitrosamines in bacon are deleted from the regulations at this time. It has been determined that the amount of nitrate used in bacon should be reduced to the lowest level as soon as possible, under conditions and procedures that would not subject consumers to health hazards such as botulism. In this connection the Department published a notice on May 16, 1978 (43 FR 21007-21008) that it is currently seeking comments and data concerning a proposed method of preparation of bacon with 40 PPM of ingoing sodium nitrite or 49 PPM of ingoing potassium nitrite which it appears would be free of botulinal hazard. It appears that this would also produce a product containing levels of nitrosamines less than 5 PPB. That notice affords all interested persons an opportunity to submit comments and data concerning this matter including data with respect to whether such a product would be free of a botulinal hazard.

It appears that the reduction of the amount of nitrites used in bacon without creating botulinal or other public health hazards can be accomplished within 1 year or less, and as soon as this can be accomplished action will be taken to amend the regulations to reduce the amount of nitrite used in bacon and to prescribe a date certain when testing for confirmable levels of nitrosamines must be down to 5 PPB. Accordingly, the provisions of the current regulations stating that the confirming level shall be "at 5 PPB within 1 year of the effective date of this paragraph" is being deleted.

Accordingly, the amendments made in the regulations published on May 16, 1978 (43 FR 20992-20995) as so changed read as follows:

1. Paragraph (b) of § 318.7 is amended to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(b) Requirements for the use of nitrite and sodium ascorbate or sodium erythorbate (isoascorbate) in bacon.

(1) With respect to bacon: sodium nitrite shall be used at 120 parts per million (PPM) ingoing or an equivalent amount of potassium nitrite shall be used (148 PPM ingoing); and 550 PPM of sodium ascorbate or sodium erythorbate (isoascorbate) shall be used. Sodium ascorbate or sodium erythorbate have a molecular weight of approximately 198. Hydrated forms of these substances shall be adjusted to attain the equivalent of 550 PPM of sodium ascorbate or sodium erythorbate.

(2) The Department shall collect samples of bacon from producing plants and analyze them for the level of nitrosamines by the Thermal Energy Analyzer (TEA). In the event that a TEA analysis indicates that a confirmable level of nitrosamines might be present, additional samples shall be collected and analyzed by gas chromatography. Presumptive positive results must be confirmed by mass spectrometry before being considered positive. If, during the interval required for the Department to analyze the confirmatory samples by gas chromotography and mass spectrometry, changes are made in processing procedures which are expected to result in no confirmable levels of nitrosamines in bacon produced by these new procedures, an establishment may submit samples to USDA for analysis upon prior notification and arrangements with USDA. If, however, an establishment furnishes USDA with laboratory results from testing five consecutive lots of bacon produced under the new procedures and the testing is performed by the USDA methodology and procedures, those results will be utilized in making the determination concerning the product produced under the new procedures. Should the results of these tests reveal that confirmable levels of nitorosamines are not indicated in any of the five consecutive lots, the confirmation analysis by USDA shall be terminated and the establishment shall revert to normal monitoring status. In the event the test results continue to indicate nitorsamines, however, USDA shall proceed in its confirmation analysis on the original samples taken for confirmation. If any one of the original samples collected by USDA for confirmation if found to contain confirmable levels of nitrosamies, all bacon in the producing establishment and all future production will be retained. The Department shall sample and analyze such retained bacon for nitrosamines on a lot by lot basis. A production lot shall be that bacon produced by the establishment in any single shift. Samples from any lot of bacon under retention found to contain nitrosamines at a confirmable level shall cause the lot of bacon to be disposed of in a manner to assure it will not form nitrosamines when cooked. Such disposal may include incorporation of the uncooked bacon as an ingredient of another meat food product provided it is processed for eating without further preparation in a manner to preclude the formation of nitrosamines. Bacon subsequently produced shall not be retained because of notrosamines if the operator of the establishment makes adjustments in the processing of the product and laboratory results obtained by TEA analysis of samples from five consecutive normal sized lots of bacon indicates that the product being produced contains no confirmable levels of notrosamines. These tests from five consecutive normal sized lots of bacon shall be conducted by the Department: *Provided*, however, That if the establishment furnishes the Department with the results of tests conducted under the methodology and procedures used by the Department, such test results will be utilized in making the determination concerning the nitrosamine content of the product. All tests of bacon for nitrosamines under this subparagraph shall be made on bacon cooked 340° F for 3 minutes on each side. In order to determine that no confirmable levels of nitrosamines are present in a sample tested, the testing must be performed by methodology and procedures that would detect the presence of any nitrosamines at 10 PPB.

* * * * *

2. In the table in paragraph (c)(4), the "Products column relating to "Sodium or potassium nitrate as "Curing agents is amended to read: "Cured products other than bacon.

3. In the table in paragraph (c)(4), the "Amount column relating to "Sodium or potassium nitrite as "Curing agents is amended by adding the following at the end thereof: "Except that nitrites may be used in bacon only in accordance with paragraph (b) of this section.

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35626, 35631.)

These amendments make changes in the regulations for purposes of clarification and do not create, alter or revoke any rights or duties. It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that notice and other public procedure with respect to these changes are unnecessary and good cause is found for making the amendments effective July 24, 1978.

An impact analysis statement is available from Food Safety and Quality Service.

Done at Washington, D.C. on July 24, 1978.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.78-20721 Filed 7-24-78; 10:35 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 187]

PART 1-9—PATENTS, DATA, AND COPYRIGHTS

Institutional Patent Agreements

CROSS REFERENCE: For a document concerning observance of the new effective date for Federal Procurement Regulation Amendment 187 on Institutional Patent Agreements, see FR Doc. 78-20740 published in the notices section of this issue. Refer to the table of contents under the General Services Administration for the correct page number.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Colorado—Area No. 2 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due by August 9, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing agreement No. 97 and order No. 948, both as amended, regulate the handling of potatoes grown in desgnated counties of Colorado Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Monte Vista, Colo., on June 22, 1978. Shipments begin each season about the first of September. At its June meeting the committee did not wish to make recommendations for a regulation beyond October 31, 1978. The committee is scheduled to meet again on August 17 to review the marketing situation and make handling recommendaions for the remainder of the 1978-79 season.

The initial grade, size, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent potatoes of low quality of undesirable sizes from being distributed in fresh market channels. They would also provide consumers with good quality potatoes consistent with the overall quality of the crop and standardize the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

The proposed requirements through October 31, 1978, would be U.S. No. 2 or better grade, with a minimum size of 2 inches for round varieties, 1⅞ inches for long varieties and 1½ inches for export. Size B may be handled if U.S. No. 1, or better grade. Maturity requirements would be "moderately skinned" for all varieties, except that for the Russet Burbank and Red McClure varieties, any grade better than U.S. No. 2 must be no more than "slightly skinned."

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

The proposal is as follows:

§ 948.380 Handling regulation.

During the period September 1, 1978, through October 31, 1978, no person shall handle any lot of potatoes grown in area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements.* (1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All varieties.* Size B, if U.S. No. 1, or better grade.

(4) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.*

(1) *Russet Burbank and Red McClure varieties.* For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties.* Not more than "moderately skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to § 948.40(d) that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 2851-1540-2851.1566), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch and flour. It includes only that preparation of potatoes for market which involves the application of heat of cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in marketing agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 1, 1978, through October 31, 1978, shall meet the minimum grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: July 19, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-20554 Filed 7-24-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Bulletin 384-3

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 384-3 to announce the revision of REA Form 525, Central Office Equipment Contract (including installation) to change the amount withheld until final payment from 10 percent to 25 percent. This action is being taken to minimize the problems associated with completion of the work. On issuance of REA Bulletin 384-3, appendix A to part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than August 24, 1978.

ADDRESS: Persons interested in the proposed revision of REA Form 525 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Claude F. Buster, Jr., Acting Chairman, Committee "A" (Telephone), Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-4561.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 384-3. A copy of the proposed revision of REA Form 525 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: July 13, 1978.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc. 78-20429 Filed 7-24-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 217]

[Docket No. R-0172; Reg. Q]

INTEREST ON DEPOSITS

Penalty for Early Withdrawals

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to amend the penalty required to be imposed upon the withdrawal of funds from time deposits prior to maturity under certain limited circumstances. This amendment is being proposed because certain applications of the penalty provision in the current regulation could have a potentially severe impact on the interest earned on long-term time deposits. The amendment would modify the early withdrawal penalty as applied to Individual Retirement Account (IRA) time deposits or other time deposit agreements that provide that if additional funds are deposited to the account, such deposits extend the maturity of the existing funds on deposit. The amendment would also apply to time deposits that may not be withdrawn prior to the expiration of a certain specified period of notice (notice accounts). Under the proposed amendment, the minimum early withdrawal penalty would be reduced from the current requirement to no more than the maturity or notice period specified for the deposit. Under the Board's current regulations, in the event of a withdrawal of funds prior to maturity from time deposit agreements providing that subsequent deposits to the account extend the term or notice provision of all of the funds on deposit, or in the event of a withdrawal from a notice account prior to the expiration of the required notice period, a member bank is required to impose an interest forfeiture on the funds withdrawn back to their original date of deposit.

DATE: Comments must be received by August 30, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R-0172.

FOR FURTHER INFORMATION CONTACT:

Gilbert T. Schwartz, Senior Attorney (202-452-3623) or Anthony F. Cole, Attorney (202-452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 217.4(d) of the Board's Regulation Q (12 CFR 217.4(d)) provides that where a member bank agrees to pay a time deposit prior to maturity, the bank must impose an interest forfeiture penalty on the funds withdrawn equal to a reduction in the rate of interest paid to a rate not to exceed the rate currently prescribed for a savings deposit plus a forfeiture of three months interest at such rate. Pursuant to this provision, where additional deposits to a time deposit account are viewed under the deposit contract as resetting or extending the maturity of all previous deposits to the account, in the event of a withdrawal of funds from such account prior to maturity, a member bank is required to impose an interest forfeiture on the funds withdrawn back to the original date of deposit of those funds regardless of how long the funds have remained on deposit. (In the event the funds in such an account had matured and had been renewed prior to a subsequent deposit which reset their maturity, the penalty need only be assessed back to the date of renewal.) Similarly, if a depositor withdraws funds from a time deposit that is payable only after expiration of a required period of notice without giving such notice, or withdraws the funds prior to the expiration of such notice period, a member bank is required to impose the interest forfeiture penalty on the funds withdrawn back to the original date of deposit of those funds.

The Board believes that application of the penalty provision in the above described manner could have a potentially severe impact on the interest earned on time deposits held in long-term Individual Retirement Accounts (IRAs) and Keogh (H.R. 10) Plan accounts. In this connection, the Board is aware that many member banks have established such accounts in the form of time deposit, open accounts (TDOAs). The TDOA form has the advantage of providing for subsequent or additional deposits to the account without the necessity of issuing a new instrument. As defined in § 217.1(d) of the Board's Regulation Q (12 CFR 217.1(d)), a TDOA is a deposit with respect to which there is in force a written contract providing that neither the whole nor any part of such deposit may be withdrawn prior to maturity or prior to expiration of a period of notice given by the depositor to the bank in writing. Consistent with the deposit agreement, a subsequent deposit made to a TDOA may be viewed as either resetting the maturity of the entire amount on deposit or as having a separate and distinct maturity subject to the same time requirement as the original deposit.

In this connection, if the TDOA contract provides that subsequent deposits reset the maturity of all funds on deposit, the period during which the penalty for premature withdrawal of the funds must be assessed is lengthened. For example, a depositor establishes an IRA in the form of a TDOA with an original maturity of three years, and the deposit agreement provides that subsequent deposits reset the maturity of all funds on deposit for an additional three years from the date of subsequent deposits. The depositor then deposits $1,000 per year into the account for 10 years. Since each subsequent deposit resets the maturity of all previous deposits for an additional 3 years, none of the individual deposits to the account matures. If the depositor closes the account at the end of the eleventh year and withdraws all of the funds, a member bank, under the Board's current regulations, is required to impose the interest forfeiture penalty back to the date of original deposit of each component of the account. In the case of the initial $1,000 deposited to the account, the interest forfeiture penalty, thus, would be applied over an 11 year period despite the fact that these funds, at the time of withdrawal, had been on deposit for 8 years in excess of the originally contracted maturity.

However, if the deposit contract provides that subsequent deposits to the TDOA have a separate and distinct maturity equal to the same maturity requirement as the original deposit to the account, the impact of the early withdrawal penalty is substantially reduced. For example, assuming the same facts as in the above example, when the depositor closes the account in the eleventh year and withdraws all of the funds, the penalty must be imposed on each component of the account that has already been on deposit for more than 3 years only back to the date of its most recent maturity or renewal in the account. A member bank is required to impose the penalty back to the original date of deposit only on those funds that have not already been on deposit for 3 years. Thus, in the case of the initial $1,000 deposited to the account and which amount had matured and rolled-over in the account in years 3, 6 and 9, the minimum interest forfeiture penalty need be applied only back to the most recent maturity/renewal date (year 9), a period of 2 years, rather than back to the original date of deposit, a period of 11 years.

The proposed amendment would equalize application of the early withdrawal penalty rule with respect to those TDOA's that provide that subsequent deposits reset the maturity of all funds on deposit, with application of the penalty to TDOA's in which subsequent deposits have a separate and distinct maturity. The amendment would substantially conform application of the Board's early withdrawal penalty provision with application of the similar penalty required to be imposed on premature withdrawals from add-on certificates by savings and loan associations subject to the Federal Home Loan Bank Board's regulations. The proposed amendments would establish a minimum penalty for early withdrawal, and member banks would be permitted to impose an additional penalty if so desired.

The proposed amendment would similarly modify application of the penalty provision to time deposits that are payable only after expiration of a required notice period. Under the amendment, the minimum early withdrawal penalty would be reduced from the current requirement to no more than the specified notice period. Under the Board's current regulations, if a depositor withdraws funds from a 90-day notice account without giving the required 90-days notice, a member bank is required to impose an interest forfeiture on the funds withdrawn back to the date of original deposit even if the funds have been on deposit for a period in excess of 90 days. For example, if a depositor withdraws funds that have been on deposit for 5 years without giving the required 90-days notice, the interest forfeiture is imposed over the entire 5 year period. Under the proposed amendment, the minimum required penalty would be the forfeiture of 90 days interest. After adoption of the amendment, application of the Board's early withdrawal penalty provision with respect to premature withdrawals from notice accounts will substantially conform to the penalty required to be imposed by nonmember commercial banks on premature withdrawals from notice accounts under regulations promulgated by the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board.

To aid in consideration of this matter by the Board, interested persons are invited to submit relevant data, views or comments. Any such materials should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received by August 30, 1978. All material submitted should include the Docket Number R-0172. Such material will be

made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

Pursuant to its authority under 19 of the Federal Reserve Act (12 U.S.C. 371b), the Board of Governors proposes to amend § 217.4(d) of Regulation Q (12 CFR 217.4(d)) by adding the following sentence immediately following the third sentence of § 217.4(d) as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty for early withdrawals.* * * * With respect to a time deposit contract that provides that subsequent deposits will extend the maturity of all of the funds on deposits for a period equal to the maturity of the original deposit, or a time deposit that is payable only after expiration of a period of notice which must be given by the depositor in writing not less than 30 days in advance of withdrawal, a member bank may regard funds that have remained on deposit for a period in excess of the maturity of the original deposit or notice period as having been deposited on the last maturity date on which the funds could have been withdrawn if the maturity of such deposits had not been extended by subsequent deposits, or the last date on which notice could have been given in order to withdraw the funds without penaly.

* * * * *

By order of the Board of Governors, July 12, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-20488 Filed 7-24-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket Nos. 9068, 9069, 9070]

MACLEOD MOBILE HOMES, INC., ET AL.; MOBILE HOMES—MULTIPLEX CORP., ET AL.; HARPER SALES, INC., ET AL.

Extension of Time

AGENCY: Federal Trade Commission.

ACTION: Comment period extended for 30 days.

SUMMARY: The period of time for filing comments on the consent agreements has been extended for 30 days to August 4, 1978.

DATES: Comments must be received on or before August 4, 1978.

ADDRESSES: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John F. Dugan, Acting Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Provisionally accepted consent agreements and analyses to aid public comment were published in the FEDERAL REGISTER on March 8, 1978, 43 FR 9493, 9495, and 9497. The Commission has received a request for an extension of time within which to file comments.

The consent orders in these matters will affect numerous mobile home parks and various others who apparently have not had an opportunity to study the proposed consent orders. Accordingly, notice is hereby given that the Commission has extended the comment period for an additional 30 days to and including August 4, 1978.

By direction of the Commission dated June 15, 1978.

ROBERT J. GAC,
Acting Secretary.

[FR Doc. 78-20513 Filed 7-24-78; 8:45 am]

[6750-01]

[16 CFR Part 460]

LABELING AND ADVERTISING OF HOME INSULATION

Publication of Staff Report on Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: The Federal Trade Commission's Bureau of Consumer Protection has released to the public a staff report that summarizes and analyzes the evidence in its rulemaking proceeding on residential insulation. The staff has also recommended the final action which the Commission should take. The staff report and recommended rule have been placed on public record No. 215-59. The Bureau of Consumer Protection will also release to the public, as soon as they are available, complete microfilmed copies of the evidentiary record and an index of the materials in the record.

DATE: Members of the public are invited to comment on the staff report and the recommended rule. Comments will be accepted for the record until 30 days after the presiding officer completes his report. That report is scheduled to be published on August 14, 1978. Unless the announcement of the availability of the presiding officer's report states a later date, the last day comments will be accepted on both reports is September 14, 1978.

ADDRESSES: Requests for copies of the staff report should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Kent C. Howerton, 202-724-1514.
William I. Rothbard, 202-724-1475.
Paul J. Petruccelli, 202-724-1508.

SUPPLEMENTARY INFORMATION: Pursuant to § 1.13(g) of the Commission's rules of practice, the staff has made its report, containing its summary and analysis of the record and its recommendations as to the form of the final rule, to the Commission. The report is now available for public comment under rule 1.13(h). Copies of the report may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments will be accepted on both the staff report, and the presiding officer's report, scheduled to be made public on August 14, 1978, for a period of 30 days following the publication of the presiding officer's report. Comments should be identified as "Comment on Staff and Presiding Officer Reports—Insulation TRR," and addressed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580. When feasible, five copies should be submitted.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

In addition, the Commission has authorized the Bureau of Consumer Protection to make available to the public an index of the rulemaking record and microfilmed copies of all documents in the record. Copies of the index and microfilm should be requested from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580. Copies may be obtained as soon as they are available, upon payment of the appropriate fees.

Issued: July 14, 1978.

ALBERT H. KRAMER,
Director, Bureau of Consumer Protection.

[FR Doc. 78-20653 Filed 7-24-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

[Docket No. 78N-0138]

CANNED FRUITS

Standard of Quality for Canned Pears

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the standard of quality for canned pears and to adopt in so far as possible, both the Codex standard developed by the Codex Alimentarius Commission and proposals by the Canners League of California (CLC) and the United States Department of Agriculture regarding such standards.

DATES: Comments by September 25, 1978. Proposed compliance for products initially introduced into interstate commerce: January 1, 1982.

ADDRESS: Written comments, data, or information are to be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The Food and Agriculture/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Canned Pears" (CAC/RS 61-1972) referred to hereafter as Codex standard. The Standards Committee of the Canners League of California (CLC), 1007 L Street, Sacramento, Calif. 95814, and the Agricultural Marketing Service, United States Department of Agriculture (USDA), have requested that the requirements for minimum size in halves and quarters styles and uniformity of size in whole, halves, and quarters styles be deleted from the standard of quality for all canned fruits, including pears.

On February 7, 1975 (40 FR 5762) the Food and Drug Administration (FDA) issued a final regulation in the FEDERAL REGISTER amending the standard of identity for canned pears under § 145.175 (21 CFR 145.175) in consideration of identity provisions of the Codex standard. Also, FDA issued a proposal in the FEDERAL REGISTER of November 7, 1975 (40 FR 52172) to amend numerous standards of fill of container to establish minimum average drained weights for certain canned foods, which included canned pears. Although the Commissioner of Food and Drugs is publishing the entire Codex standard, he is proposing no amendments to the standards of identity and fill of container.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under treaty obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country; insofar as features dealt with by the Codex standard are concerned, products that do not comply, whether domestic or imported, will not be permitted to be distributed without restrictions under the name and description laid down in the standard. The restictions that may be imposed are not incorporated in the Codex standard; these elective restrictions are left to the legislation and regulations of the individual countries. A participating country which concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years the United States has had a standard of quality in § 145.175(b) for canned pears as established under the authority of section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act (the act), which covers pears canned as whole, halves, quarters, slices, diced, and pieces or irregular pieces. There are also voluntary grade standards for marketing, developed by USDA for canned pears. There is no substantial conflict between the U.S. standard and the Codex standard. This proposal to amend the U.S standard of quality for canned pears and to adopt as far as practicable the Codex standard is based on the opinion of the Commissioner that the amended standard will promote honesty and fair dealing in the interest of consumers and will facilitate international trade.

In proposing to align, to the extent possible, the U.S. standard with the Codex standard, the Commissioner has noted certain differences of the composition and format of the Codex standard from the U.S. standard. The units of measurements in the U.S. standard are stated in either units of the U.S. customary system (pounds, inches), units of the international (metric) system, or both, but the Codex standard uses only the metric system. The Commissioner recognizes that the metric system is generally used throughout the world and in the United States for technical purposes and that it may eventually be adopted by this country for common usage. The Commissioner, therefore, proposes that the international metric system be used in the U.S. standard of quality for canned pears with the equivalent units of the U.S. customary system shown parenthetically. The Codex standard sometimes uses subjective terms in stating its requirements; the Commissioner maintains that these terms are not precise enough to be legally enforceable and he has omitted them from the proposal.

The final rule amending the U.S. standard of quality for canned pears will be based upon consideration of the CLC and USDA request and the quality aspects of the following Codex standard, together with comments and supporting data received in response to this proposal, and other available information. The Commissioner proposes to adopt the most stringent, reasonable criteria for ensuring the quality of canned pears based on the information submitted thus far and the agency's experience in regulating the quality of canned fruits.

RECOMMENDED INTERNATIONAL STANDARD FOR CANNED PEARS

1. *Description.*

1.1 *Product definition.* Canned pears is the product (a) prepared from pears of proper maturity of commercial canning varieties conforming to the characteristics of the fruit of *Pyrus communis* or *Pyrus sinensis*, which pears are peeled cored, and stemmed for all styles, except that for whole style they need not be peeled, cored, or stemmed and for halves style they need not be peeled; (b) packed with water or other suitable liquid packing medium and may be packed with seasonings or other flavouring ingredients; and (c) processed by

heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal type.* Any suitable variety of cultivated pears may be used.

1.3 *Styles.*

1.3.1 Whole—peeled or unpeeled, with cores removed or left in.

1.3.2 Halves—peeled or unpeeled, with stems and cores removed, and cut into two approximately equal parts.

1.3.3 Quarters—peeled and cut into four approximately equal parts.

1.3.4 Sliced—peeled and cut into wedge-shaped sectors.

1.3.5 Diced—peeled and cut into cube-like parts.

1.3.6 Pieces or irregular pieces—peeled and comprising irregular shapes and sizes.

2. *Essential Composition and Quality Factors*

2.1 *Packing Media*

2.1.1 Canned pears may be packed in any one of the following—

2.1.1.1 Water—in which water is the sole packing medium;

2.1.1.2 Fruit juice—in which pear juice, or any other compatible fruit juice, is the sole packing medium.

2.1.1.3 Water and fruit juice(s)—in which water and pear juice, or water and any other single fruit juice or water and two or more fruit juices, are combined to form the packing medium;

2.1.1.4 Mixed fruit juices—in which two or more fruit juices, which may include pear, are combined to form the packing medium;

2.1.1.5 With sugar(s)—any of the foregoing packing media (2.1.1.1 through 2.1.1.4) may have one or more of the following sugars added: sucrose, invert sugar syrup, dextrose, dried glucose syrup, glucose syrup.

2.1.2 Classifications of packing media when sugars are added.

2.1.2.1 When sugars are added to pear juice or other fruit juices, the liquid media shall be not less than 14° Brix and shall be classified on the basis of the cut-out strength as follows:

Lightly sweetened (name of fruit) juice—not less than 14° Brix.
Heavily sweetened (name of fruit) juice—not less than 18° Brix.

2.1.2.2 When sugars are added to water or water and pear juice or water and fruit juices the liquid media shall be classified on the basis of the cut-out strength as follows:

Basic Syrup Strengths

Light syrup—not less than 14° Brix.
Heavy syrup—not less than 18° Brix.

2.1.3 Optional packing media. When not prohibited in the country of sale, the following packing media may be used:

Slightly sweetened water—not less than 10° Brix but less than 14° Brix.
Water slightly sweetened—not less than 10° Brix but less than 14° Brix.
Extra light syrup—not less than 10° Brix but less than 14° Brix.
Extra heavy syrup—more than 22° Brix.

2.1.4 The cut-out strength of pear juice or syrup shall be determined on sample average, but no container may have a Brix value lower than that of the minimum of the next category below, if such there be.

2.2 *Other permitted ingredients.* Spices, spice oils, mint; lemon juice (single strength or concentrated) added as an acidulant or flavour enhancer.

2.3 *Quality Criteria*

2.3.1 Colour.—Except for artificially coloured canned pears, the pears shall have normal colour characteristics for canned pears and typical of the variety used, and a slight pink discolouration shall not be regarded as a defect. Canned pears containing other permitted ingredients shall be considered of characteristic colour when there is no abnormal discolouration for the respective ingredient used.

2.3.2 Flavour.—Canned pears shall have a normal flavour and odour free from flavours and odours foreign to the product. Canned pears with special flavourings shall have the flavour characteristic of that imparted by the pears and the other substances used.

2.3.3 Texture.—The pears may be variable in tenderness but shall neither be mushy nor excessively firm.

2.3.4 Uniformity of size.—Whole, halves, quarters—in 95 percent by count of units that are most uniform in size, the weight of the largest unit shall be no more than twice the weight of the smallest unit, but if there are less than 20 units, one unit may be disregarded. Where a unit has broken in the container, the broken pieces are reassembled to approximate a single unit of the appropriate style.

2.3.5 Defects and allowances.—The product shall be substantially free from defects such as harmless plant material, peel (in peeled styles), core material, blemished units, and broken units. Certain common defects shall not be present in amounts greater than the following limitations:

Defects	Maximum limits
(a) Blemished and trimmed pear units. (Blemished units with surface discoloration and spots that definitely contrast with the overall color and which may penetrate into the flesh, such as bruises, scab, and dark discoloration. Trimmed units that have deep gouges, whether due to physical trimming or other means, and which definitely detract from the appearance; trimmed units are considered defects only in whole, halved, and quartered styles.).	(i) Total, 30 pct by count; or three units per container when count is less than 10; provided the sample average is no more than 30 pct; —but limited to — (ii) 20 pct by count blemished; or two units per container when count is less than 10; provided the sample average is no more than 20 pct for blemished.
(b) Broken. (In whole, halves, and quartered styles only—a unit severed in two or more parts shall be considered as one unit when reassembled to the approximate size and shape of an average unit in the container.).	20 pct by count; or two units per container when count is less than 10; provided the sample aveage is no more than 10 pct.
(c) Core material. (Average.) (Except in "Whole-Not-Cored" styles.) (Consisting of the seed cell, whether loose or attached, with or without seeds. For the purposes of calculating the defects allowance, all pieces of a core in the sample shall be aggregated and pieces totaling approximately one-half of a core shall be counted as one unit.).	Two units per kg of total contents.
(d) Peel. (Average.) (Except in "Unpeeled" styles.) (Peel that adheres to pear flesh or is found loose in the container.).	10 cm^2 (10 cm^2) aggregate area per kg of total contents.
(e) Harmless plant material. (All styles.) (Includes leaf or similar vegetable material and stems in styles in which the stem is customarily removed.).	0.2 pct m/m of total contents.
(f) Seeds. (Average.) (Except in "Whole-Not-Cored" styles.) (Any one pear seed or the equivalent in pieces of one seed that are not included in core material.).	8 per kg of total contents.

2.3.6 Classification of "defectives."—A container that fails to meet one or more of the applicable quality requirements, as set out in subsections 2.3.1 through 2.3.5 (except those based on sample average) shall be considered a "defective".

2.3.7 Acceptance.—A lot will be considered as meeting the applicable quality requirements referred to in subsection 2.3.6 when:

(a) For those requirements which are not based on averages, the number of "defectives", as defined in subsection 2.3.6 does not exceed the acceptance number (c) of the appropriate sampling plan in the FAC/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969); and

(b) The requirements of sub-section 2.3.5, which are based on sample average, are complied with.

3. *Food Additives.*

3.1 *Acidifying agents and maximum level of use.*

3.1.1 Citric acid—not limited.

3.1.2 Malic acid—not limited.

3.1.3 L-Tartaric acid—not limited.

3.1.4 Lactic acid—not limited.

Maximum level of use

3.2 *Colours.* (Permitted only in specialty packs.)

3.2.1 Amaranth—CI 16185: 200 mg/kg of the final product singly or in combination.

3.2.2 Erythrosine—CI 45430: 200 mg/kg of the final product singly or in combination.

3.2.3 Fast Green FCF—CI 42053: 200 mg/kg of the final product singly or in combination.

3.2.4 Ponceau 4 R—CI 16255: 200 mg/kg of the final product singly or in combination.

3.2.5 Tartrazine—CI 19140: 200 mg/kg of the final product singly or in combination.

3.3 *Natural flavours* and their identical synthetic equivalents except those which are known to represent a toxic hazard:[1] Not limited.

4. *Contaminants.* Tin, maximum level—250 mg/kg,[2] calculated as Sn.

5. *Hygiene.*

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommeded by the Codex Alimentarius Commission (Ref. CAC/RCP 2-1969).

5.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

(a) Shall be free from microorganisms capable of development under normal conditions of storage, and

(b) Shall not contain any substances originating from microorganisms in amounts which may be toxic.

6. *Weights and measures.*

6.1 *Fill of Container.*

6.1.1 Minimum fill.—The container shall be well filled with fruit and the product (including packing medium) shall occupy not less than 90 percent of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20° C which the sealed container will hold when completely filled.

6.1.1.1 Classification of "defectives."—A container that fails to meet the requirement for minimum fill (90 percent container capacity) of subsection 6.1.1 shall be considered a "defective."

6.1.1.2 Acceptance.—A lot will be considered as meeting the requirement of sub-section 6.1.1 when the number of "defectives", as defined in subsection 6.1.1.1, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

6.1.2 Minimum drained weight.

6.1.2.1 The drained weight of the product shall be not less than the following percentages, calculated on the basis of the weight of distilled water at 20° C which the sealed container will hold when completely filled.

Whole style—50 percent.
Halves, quarters, slices, pieces—53 percent.
Diced—60 percent.

6.1.2.2 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

7. *Labeling.* In addition to sections 1, 2, 4, and 6 of the General Standards for the Labeling of Prepackaged Foods (Ref. CAC/RS 1-1969), the following specific provisions apply:

7.1 *The name of the food.*

7.1.1 The name of the product shall be "pears".

7.1.2 The style, as appropriate, shall be declared as a part of the name or in close proximity to the name:

"Whole" (when peeled and not cored); and additionally "stemmed" or "unstemmed," as the case may be.
"Whole unpeeled" (when not peeled and not cored); and additionally "stemmed" or "unstemmed," as the case may be.
"Whole—cored" (when peeled and cored).
"Whole unpeeled—cored" (when not peeled but cored).
"Halves" (when peeled).
"Halves unpeeled" (when not peeled).
"Quarters" or "quartered."
"Slices" or "sliced."
"Dice" or "diced" or "cubes."
"Pieces" or "irregular pieces."

7.1.3 The packing medium shall be declared as part of the name, or in close proxmity to the name.

7.1.3.1 When the packing medium is composed of water, or water and pear juice, or water and one or more fruit juices, in which water predominates, the packing medium shall be declared as: "In water" or "packed in water."

7.1.3.2 When the packing medium is composed solely of pear juice, or any other single fruit juice, the packing medium shall be declared as: "In pear juice" or "In (name of fruit) juice."

7.1.3.3 When the packing medium is composed of two or more fruit juices, which may include pear juice, it shall be declared as:

"In (name of fruits) juice,"
"In fruit juices," or
"In mixed fruit juices."

7.1.3.4 When sugars are added to pear juice or other fruit juices, the packing medium shall be declared as:

"Lightly sweetened (name of fruit) juice,"
"Heavily sweetened (name of fruits) juice(s),"
"Lightly sweetened fruit juices," or
"Heavily sweetened mixed fruit juice(s),"

as may be appropriate.

7.1.3.5 When sugars are added to water, or water and a single fruit juice (including pear juice) or water and two or more fruit juices, the packing medium shall be declared as:

"Light syrup" or "heavy syrup,"
"Water slightly sweetened,"
"Slightly sweetened water", or
"Extra light syrup" or "Extra heavy syrup,"

as may be appropriate.

7.1.3.6 When the packing medium contains water and pear juice or water and one or more fruit juice(s), in which the fruit juice comprises 50 percent or more by volume of the packing medium, the packing medium shall be designated to indicate the preponderance of such fruit juice, as for example: "Pear juice and water" or "(name of fruit) juice(s) and water."

7.1.4 When pears are artificially coloured, the declaration shall be made as part of the name or in close proximity to the name, including the characterizing colour, e.g. "Pears—artificially coloured green".

7.1.5 As part of the name or in close proximity to the name, any flavouring which characterizes the product shall be declared, e.g. "With —— X ——", where appropriate.

7.2 *List of ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

7.3 *Net contents.* The net contents shall be declared by weight in either the metric ("Systeme International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

7.5 *Country of origin.*

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purpose of labeling.

7.6 *Optional declarations.*

7.6.1 The name of the product may include the varietal type or designation of "dessert" type.

8. *Methods of analysis and sampling.* The methods of analysis and sampling referred to hereunder are international referee methods.

8.1 *Method of sampling.* Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

8.2 *Determination of drained weight.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36-1970, Determination of Drained Weight—Method I). Results are expressed as percent m/m calculated on the basis of the mass of distilled water at 20° C which the sealed container will hold when completely filled.

8.3 *Syrup measurements (refractometric method).* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, *31.011:* (Solids) by Means of Refractometer (4). Official, Final action (and 47.015 and 47.012). Results are expressed as percent m/m sucrose ("degrees Brix"), without correction for insoluble solids, acidity or invert sugar, but with correction for temperature to the equivalent at 20° C.

8.4 *Determination of water capacity of containers.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, 2d Series, Determination of Water Capacity of Containers—CAC/RM 46-1972). Results are expressed as volume of distilled water that the container holds.

In many respects the provisions of the present U.S. standard of quality and the Codex standard are identical. The following is a comparison of what the Commissioner believes to be the principal differences between the U.S. standard of quality and the Codex standard. The Commissioner particularly requests comments with available supporting data on these differences.

[1] Temporarily endorsed.

[2] This is a provisional limit which is subject to review.

Following each item of comparison is the action the Commissioner proposes to take.

COLOR

Codex (2.3.1) states that canned pears, except those artifically colored, shall have normal color characteristics typical of the variety, and a slight pink discoloration shall not be considered a defect. The USDA voluntary grade standards state that canned pears shall have a fairly good color and that the units, individually or collectively, may vary noticeable from a uniform, characteristic color. The units may be "dead white" (or "chalky") in appearance, may have a slight pink or brown cast, but cannot be off-color for any reason. Codex and the USDA standards do not provide an objective means for evaluating color. The U.S. standard (the FDA standard of quality) makes no reference to color except for discolorations that are blemishes.

Discoloration indicating the use of unfit raw material or contamination with a foreign substance is not considered a part of food standards under section 401 of the act but is dealt with under the adulteration provisions of the act (21 U.S.C. 342). In the absence of objective test methods, the Commissioner does not propose to provide color requirements other than for certain blemishes discussed below.

FLAVOR AND ODOR

Codex (2.3.2) states that the pears shall have a normal flavor and odor and be free of foreign flavors. The USDA voluntary grade standards have substantially the same provision. Neither Codex nor the USDA standards provide a means, other than subjective examination, for determining compliance. The U.S. standard of quality has no provision related to flavor or odor.

Abnormal flavor or odor would indicate spoilage, contamination, or other abnormal conditions, and they are not considered a part of food standards under section 401 of the act but are dealt with under the statute's adulteration provisions. The Commissioner, therefore, proposes no change.

TEXTURE AND MATURITY

Codex (2.3.3) states that canned pears may be variable in texture, but they shall be neither mushy nor excessively firm. The USDA standards require the units to possess the texture of properly processed pears. The units may show marked graininess and may lack uniformity of tenderness; they may be markedly firm or markedly ragged or soft. Not more than 10 percent by count for whole pears and 10 percent by weight for halves, quarters, and pieces may be mushy or consist of units with hard calyx ends or units that are not tender. For slices and diced pears the USDA voluntary grade standards require that the product generally possess a texture of properly prepared and processed pears and that not more than 20 percent by weight may be disintegrated or mushy. Neither the Codex nor the USDA standards provide an objective means for evaluating texture.

The U.S. standard, § 145.175(b)(1)(i), requires that all units be pierceable by a weight of not more than 300 grams (10.6 ounces) according to the procedure provided in § 145.175(b)(2). However, it sets no limits on mushiness, and it provides that a unit that has lost shape because of ripeness shall not be counted crushed or broken.

Although extreme mushiness in canned pears is not desirable, the Commissioner does not consider it to be in the public interest to discourage the packing of well-ripened fruit. The procedure for determining lack of ripeness (hardness) presently in the U.S. standard of quality is a reproducible, objective test. Therefore, the Commissioner proposes no change in the standard.

MINIMUM SIZE (WEIGHT)

Codex has no minimum size requirements for halves and quarters. The U.S. standard, § 145.175(b)(1)(ii), and the USDA standards for halves and quarters require the weight of each unit to be not less than three-fifth ounce (17 grams) and three-tenth ounce (8.5 grams), respectively. The U.S. standard, which does not contain a statistical sampling and acceptance procedure, is based on the premise that each container either does or does not meet the requirements. In its voluntary grading program, the USDA uses a statistical sampling and acceptance procedure similar to that in the Codex standard (2.3.7 and 8.1).

In their comments on the standard of quality for canned peaches, USDA and CLC request deletion of the minimum size (weight) requirements from the standards of quality for all canned fruits. The USDA states that zero tolerances, which allow no divergence for each unit from the range of sizes for the fruit permitted for that unit, are difficult to enforce uniformly; and they are not statistically sound when the sample size is variable. It recommends that the standard of quality be amended, as was the standard of quality for canned apricots, to delete the zero tolerance requirements. Further, USDA argues that the minimum size of the units is no longer appropriate as a factor of quality because small units are not necessarily of poor quality. But USDA notes that canners do not have any difficulty complying with the requirements because the small units are mechanically separated and diverted to suitable styles of pack.

The CLC requests deletion of the minimum size requirements for weight. It states that this is in the interest of the canners maintaining economical and efficient operations and avoiding increased costs to consumers. That group also contends that minimum size requirements in the current standard of quality do not benefit the consumer in that they are of "cosmetic significance" and do not present direct relationships between the quality and edibility of the individual fruit units.

Recognizing the impossibility of enforcing a zero tolerance on the permissible range of size variation for every unit of canned fruit, the Commissioner is proposing elsewhere in this document the adoption of the Codex sampling and acceptance procedure for the determination of compliance with the quality criteria. The criteria and sampling plans for measuring compliance are given in § 145.3 (o) and (p) (21 CFR 145.3 (o) and (p)).

The minimum size requirements are based upon substantial evidence in the record of the 1939 hearing on the standard of quality for canned pears. The findings of fact, made on the basis of the hearing and published in the FEDERAL REGISTER of January 9, 1940 (5 FR 105), state that the size of the units for canned pear halves halves and quarters is a factor of quality. Canned pear halves and quarters that are of standard quality have mimimum size requirements of ⅝ ounce (17 grams) and $^{3}/_{10}$ ounce (8.5 grams), respectively; these minimums are less than those adopted by the packers of over 97 percent of the canned pears produced in the United States.

The amendment of the standard of quality for canned apricots to delete the minimum size requirements, referred to in USDA's comment on the standard for peaches, was based on substantial evidence discussed in the proposal published in the FEDERAL REGISTER of May 16, 1970 (35 FR 7654), that deletion of the requirements was in the interest of the consumer. The National Canners Association (now the National Food Processors Association) submitted evidence to showl that (1) consumers had ceased to regard the size of apricot halves and quarters as an indication of quality; (2) horticulture changes since 1939 voided the basis for the size limitation; (3) a trend toward a smaller crop and a smaller average apricot size coupled with the increased consumer demand for canned apricots could result in a serious economic disadvantage to the consumer unless smaller satisfactory apricots were permitted for use; and (4) the sales of apricots in

smaller can sizes had increased, and smaller apricot units provided for a better fill. No such data were submitted in support of a showing that the present minimum size requirements for canned pears are incompatible with the promotion of honesty and fair dealing in the interest of consumers, nor does the Commissioner agree that mimimum size should not be a factor of quality. He notes, further, that USDA admits that canners do not have difficulty complying with these requirements. In the absence of data in support of the deletion of these requirements, the Commissioner is proposing no change in the U.S. standard of quality on this point.

UNIFORMITY OF SIZE (WEIGHT)

Codex (2.3.4) states that for whole, halves, and quarters in 95 percent by count of the units that are most uniform in size, the weight of the largest unit shall be no more than twice the weight of the smallest unit; but if there are less than 20 units in the container, one unit may be disregarded. When a unit has broken in the container, the broken pieces are to be reassembled to approximate a single unit of the appropriate style. The U.S. standard of quality, § 145.175 (b)(1)(iii), and USDA voluntary grading standards, for whole, halves, and quarters, require the weight of the largest unit in the container to be not more than twice the weight of the smallest unit. The U.S. standard, since it does not contain a statistical sampling and acceptance procedure, is based on the premise that each container either does or does not meet the requirement. The USDA's grading program used a statistical sampling and acceptance procedure similar to that in the Codex standard (2.3.7 and 8.1).

The CLC and the USDA have requested that the uniformity of size requirement be deleted from the U.S. standard. As with its request for deleting the minimum size requirements for halves and quarters, CLC contends that these requirements are cosmetic, do not benefit the consumer, and do not present a direct relationship to quality. The USDA states that the uniformity of size requirements causes unnecessary production and quality control costs, particularly with the large No. 10 cans (109 ounces) where the probability of a unit exceeding twice the weight of the smallest is the greatest. Moreover, USDA argues that there is no device on the production line to reduce the variation in the weight of the individual fruit units, and that hand sorting is costly and not very accurate.

The USDA states that when inspectors were asked to arrange samples of peach units visually in order of weight, the lightest and heaviest units were rarely at the ends of the arrangement. This requirement is one of the most time consuming quality control procedures because the determination involves weighing many units individually to find the lightest and heaviest units in a sample. Generally, USDA further argues, on the basis of tests including USDA and nongovernment employees, that consumers tend to judge uniformity of size relative to diameter rather than to weight. For these reasons it proposes that the uniformity of weight requirement be deleted from all standards of quality for canned fruit.

The present uniformity of size requirement which is keyed to weight is based upon substantial evidence in the record of the 1939 hearing on the standard of quality for canned pears. The findings of fact from the hearing state that uniformity of size is a factor that goes to make up the quality of canned pears in whole, halves, and quarters styles and is necessary to prevent variant numbers of units in servings of desserts and salads on the same table. The findings of fact also note that such units are of reasonable uniformity of size (diameter) if the weight of the largest unit is not more than twice that of the smallest unit in the container, and that the weights of such units are determined in the same manner as weights for minimum size of units. No data on pears were submitted to show that the present requirement is incompatible with the promotion of honesty and fair dealing in the interest of consumers and that good commercial practice will not produce pears in the form of whole, halves, and quarters compatible with the uniformity of size (weight) requirement (§ 145.175(b)(1)(iii)). The Commissioner is also not aware that manufacturers must weigh many units to assure compliance. Normally, routine visual sorting will determine the containers that require weighing of individual units, and, even then, usually not all of the units in the containers must be weighed. He, therefore, proposes retention of the uniformity of size (weight) requirement.

The Commissioner agrees that diameter may be a more meaningful basis than weight for determining uniformity of size. According to the findings of fact from the January 1940 hearing on canned pears, there is a positive correlation between the weight of a unit, which can be easily measured, and its diameter, which cannot be. However, there are no data to show that there is a direct relationship between diameter and uniformity of size. If more meaningful data on the ratio of diameter to uniform size requirement become available, he will consider a petition proposing an appropriate amendment. Such information must consider the relationship between the diameter and the weight of the unit. It also must consider variables such as variety, maturity, and growing area.

The Commissioner is of the opinion that the Codex provision on the uniformity of size requirement is reasonable and is proposing to adopt it. Under that provision 95 percent, by count, of units shall be most uniform in size, but if there are fewer than 20 units, one unit may be disregarded in the determination.

Again, to address the issue of practicality of enforcement, the Commissioner is proposing to adopt the Codex procedure for sampling and acceptance, codified in § 145.3 (o) and (p).

PEEL

Codex (2.3.5(d)), except in unpeeled styles, allows as average of 10 square centimeters of peel, adhering to pears or loose in the container, per kilogram (1.6 square inches per 35.3 ounces) of net weight. The U.S. standard, § 145.175(b)(1)(iv), and the USDA standards permit an average of 1 square inch of peel per 16 ounces (14 square centimeters per kilogram) of net content.

The Commissioner proposes adoption of the more restrictive Codex provision.

BLEMISHED AND TRIMMED UNITS

Codex (2.3.5(a)) provides a limit on the total number of blemished and trimmed units in a container. The total may not exceed 30 percent by count or 3 units per container when the count is less than 10; not more than 20 percent of the total, or 2 units per container when the count is less than 10, may be blemished. Codex considers blemishes as a defect in all styles and trimmed units as a defect only in whole, halves, and quarters. The USDA voluntary grading standards have separate limits for blemished and for trimmed units, allowing 30 percent by count to bear either blemishes or minor blemishes, with a maximum of 20 percent blemished. The USDA standards additionally allow 10 percent by count or one unit—whole, half, or quarter—to be seriously trimmed. The USDA standards define a blemish as including: (1) Scab hail injury, discoloration (abnormal), or other abnormality, aggregating the area of a circle more than one-fourth inch (6.5 millimeters) in diameter; (2) dark brown areas, aggregating the area of a circle one-fourth inch (6.5 millimeters) or less in diameter, which materially affect appearance; (3) definitely corky or hard spots on outer surfaces, aggregating the area of a circle more than one-half inch (14 millimeters) in diameter, which are not accompanied by material discoloration; and (4) regardless of area, very

dark brown spots that materially affect appearance or edibility.

The U.S. standard, § 145.175(b)(1)(v), states that not more than 20 percent by count of the units in the container may be blemished with scab, hail injury, discoloration, or other abnormalities. Section 145.175(b)(1)(vi) states that in the cases of whole pears, halves, and quarters, all units are untrimmed, or are so trimmed as to preserve normal shape.

In the opinion of the Commissioner, it is preferable to continue to deal with blemished units and trimmed units separately. The Commissioner is aware that pears are usually peeled by machine, and since blemished units must be detected and removed as the fruit passes on an inspection belt, it is not practicable to observe every blemished unit. Some will inevitably pass into the finished canned product. Trimmed units, however, result from the intentional removal of blemishes from individual units. This is done by workers along an inspection belt who pick out blemished units, trim away the blemished portion while preserving the normal shape of the unit if possible, and return the unit to stock going on to processing. However, if the normal shape has not been preserved, the Commissioner maintains that the trimmed unit should then be used for slices, dice, and pieces or irregular pieces. The Commissioner considers the present limitations on blemished and trimmed units to be reasonable and, therefore, proposes no changes. However, he proposes to include in the limitation on blemishes a definition of a blemish based on the USDA definition.

Crushed or Broken Units

Codex (2.3.5(b)) provides that for whole, halves, and quarters, not more than 20 percent of the units by count, or 2 units per container when the count is less than 10, may be broken if the sample average of the broken units does not exceed 10 percent. Codex also provides that a unit severed in two or more parts shall be considered as one unit when reassembled to the approximate size and shape of an average unit in the container. The USDA standards permit not more than 10 percent, by count, or one unit in whole, halves, quarters, and slices styles to be crushed or broken. They further define crushed units as halves, quarters, slices, or whole pears that have lost their normal shape; and/or bear marks of crushing; and/or are crushed otherwise, but not due to ripeness. Broken units are defined as halves, quarters, slices, or whole pears that are severed into definite parts; but halves which are slightly split from the edge to the core cavity or at the stem end are not "broken." In the U.S. standard, § 145.175(b)(1)(vii), "[e]xcept in the case of mixed pieces of irregular sizes and shapes, not more than 10 percent of the units in a container of 10 or more units, and not more than 1 unit in a container of less than 10 units, are crushed or broken." It further provides that a unit which has lost its shape because of ripeness and bears no mark of crushing shall not be considered crushed or broken.

The Codex standard is more lenient, and the Commissioner is not aware of any reason to support the adoption of the less stringent provision. He, therefore, is proposing no change in the current U.S. standard.

Core Material and Partially Cored Units

Codex (2.3.5(c)) permits an aveage of two units of core material per kilogram (35.3 ounces) of total contents, and it defines core material as the seed cell, whether loose or attached, with or without seeds. To determine the amount of core material, Codex states that all pieces of a core in the sample shall be aggregated and pieces totaling approximately one-half of a core shall be counted as one unit. The USDA standards permit two units of "loose core material" per 30 ounces (849 grams). In addition, the USDA, on an administrative basis, permits up to 40 percent by count of the units in halves, quarters, slices, and pieces, and 5 percent by weight of the units in diced style to be partially cored. The U.S. standard of quality has no requirements for core material or partially cored units.

The USDA contends the Codex requirement is impractical and separate tolerances for loose core material and partially cored units are necessary because of the method used by the canning industry in the United States to remove the cores from pears. The pears are individually placed in cups of machines which automatically bore out the cores, and the presence of loose core material is caused mainly by the machines not completely separating the core from the decored pears. USDA states that the machines may leave small amounts of core material when pears have cores that are off-centered from stem to apex or the pears are improperly placed in the cups. According to USDA, no more than one or two seed cells will remain in each such pear and an aggregate of the pieces in a kilogram (35.3 ounces) will not total one-half of a core. Therfore, the USDA has adopted the administrative tolerance for partially cored units.

The Commissioner is proposing to establish limitations for loose core material and partially cored units in all styles, except, of course, uncored whole canned pears. Using the Codex as a guide, he is proposing a limitation on loose core material of two units per kilogram (35.3 ounces) of net contents. A unit of such material is defined as a portion of loose core, with or without seeds, aggregating approximately one-half of a pear core. He proposes a limitation on partially cored units of 40 percent by count in halves, quarters, slices, and pieces or irregular pieces styles and 5 percent by weight in diced style. A partially cored unit is defined as a unit of pear that contains a portion of the seed cell cavity.

Harmless Plant Material

Codex (2.3.5(e)) limits harmless plant material, including leaf or similar vegetable material and stems in styles in which the stem is customarily removed, to 0.2 percent by weight "(m/m)" of total contents. The USDA standards allow one external pear stem per 100 ounces (2,857 grams) of net weight. The USDA standards provide no specific limits for other forms of harmless vegetable material and state only that the product shall be "fairly free" of such defects. The U.S. standard has no provisions relating to stems or other harmless vegetable material.

On the basis of the more restrictive USDA requirement, the Commissioner proposes a limitation of one piece of harmless plant material, e.g., leaf, stem, etc., per 3 kilograms of net weight.

Seeds (Except Uncored Pears)

Codex (2.3.5(f) allows an average of eight seeds per kilogram (35.5 ounces) of total contents, except in whole uncored pears. Codex defines as a seed any one pear seed or the equivalent in pieces of one seed that are not included in core material. The USDA standards allow an average of one loose seed per 10 ounces net contents, which is equivalent to an average of 3.5 seeds per 35.3 ounces (1 kilogram) of net weight. The current U.S. standard of quality has no limitation on seeds.

Because the USDA standard on this point is more consistent with quality than the Codex provision, the Commissioner proposes to adopt the USDA provision.

Acceptance Procedure

Codex (2.3.6) defines as a defective any container that fails to meet one or more of the quality requirements (except those for core material, peel, and seeds which are based on the sample average). It further provides (2.3.7) that a lot shall be regarded as meeting the standard of quality for canned pears when the number of defectives does not exceed the acceptance number in the 1969 FAO/WHO Codex sampling plans for prepackaged

foods (AQL 6.5) or when a lot is in compliance with requirements that are based on sample averages. The USDA standards contain statistical sampling plans and an acceptance procedure similar to Codex. The U.S. standard does not prescribe sampling plans or an acceptance procedure.

The Commissioner believes that statistical sampling plans and an acceptance procedure will provide consumers and manufacturers with more informative product requirements. The Commissioner, therefore, proposes to adopt a statistical sampling plan and an acceptance procedure based on Codex for determining compliance with provisions of the quality standard, which are set forth in § 145.3 (o) and (p).

The Commissioner proposes that all products initially introduced into interstate commerce on or after January 1, 1982, shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal, Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that part 145 be amended by revising paragraph (b) of § 145.175, to read as follows:

§ 145.175 Canned pears.

* * * * *

(b) *Quality.* (1) The standard of quality for canned pears is as follows:

(i) *Maturity.* All units tested in accordance with the method prescribed in paragraph (b)(2) of this section are pierced by a weight of not more than 300 grams (10.6 ounces).

(ii) *Minimum size.* In the case of halves and quarters, the weight of each unit is not less than 17 grams (0.6 ounce) and 8.5 grams (0.3 ounce), respectively.

(iii) *Uniformity of size.* In the case of whole pears, halves and quarters, among those units comprising 95 percent by count of those present in the container that are most uniform in size, the weight of the largest unit is not more than twice the weight of the smallest unit. In containers with less than 20 units, 1 unit may be disregarded in making the determination. Where a unit has broken in the container, reassemble the broken pieces to approximate a single unit of the appropriate style.

(iv) *Peel (except unpeeled style).* Not more than 10 square centimeters (1.6 square inches) of peel adhering to pears or loose in the container per kilogram (35.3 ounces) of net weight.

(v) *Blemished units.* Not more than 20 percent by count of the units in the container are blemished with scab, hail injury, discoloration, or other abnormality aggregating the area of a circle more than 6.5 millimeters (0.25 inch) in diameter; corky or hard spots on outer surfaces aggregating the area of a circle more than 13 millimeters (0.5 inch) in diameter; or dark brown areas aggregating the area of a circle less than 6.5 millimeters (0.25 inch) in diameter which penetrate into the flesh or affect the appearance of the unit.

(vi) *Trimmed units.* In the case of whole pears, halves, and quarters, all units are untrimmed or are so trimmed as to preserve normal shape.

(vii) *Crushed or broken units.* In the case of whole, halves, quarters, slices, and diced pears, not more than 10 percent by count of the units in containers of 10 or more units and not more than 1 unit in containers of less than 10 units are crushed or broken. A unit that has lost its normal shape because of ripeness and bears no mark of crushing shall not be considered to be crushed or broken.

(viii) *Loose core material in all styles except uncored whole style.* Not more than two units of loose core material per kilogram (35.3 counces) of net weight. A unit of such material is defined as a portion of loose core, with or without seeds, aggregating approximately one-half of a pear core.

(ix) *Partially cored units in all styles except uncored whole style.* Not more than 40 percent by count partially cored units in halves, quarters, slices, and pieces or irregular pieces styles and not more than 5 percent by weight in diced style. A partially cored unit is a unit of pear that contains an attached portion of the seed cell cavity.

(x) *Extraneous plant material.* Not more than one piece of harmless extraneous plant material, e.g., leaves and stems (except uncored whole style with attached stems), per 3 kilograms (105.9 ounces) of net weight.

(xi) *Seeds in all styles except whole uncored style. Not more than 3.5 seeds or the equivalent in pieces of seeds per kilogram (35.3 ounces) of net weight. Seeds included as "core material" shall not be counted a second time.*

(2) Canned pears shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape of 28.6 millimeters (1⅛ inches) inside diameter, with vertical sides; or rectangular in shape, 19 millimeters (¾ inch) by 25.4 millimeters (1 inch) inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of 19 millimeters (¾ inch). Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least 12.7 millimeters (½ inch) by 25.4 millimeters (1 inch) cannot be trimmed. Test the piece by means of a round metal rod 4 millimeters (5/32 inch) in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams (3.5 ounces). Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams (0.42 ounce) per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) Determine compliance as specified in § 145.3(o) except that a lot shall be deemed to be in compliance for peel in all styles except unpeeled styles and seeds in all styles except whole uncored style based on the average of all samples analyzed according to the sampling plans set out in § 145.3(p).

(4) If the quality of canned pears falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned pears falls below standard with respect to only one of the factors of quality specified in paragraph (b)(1)(i) through (xi) of this section, there may be substituted for the second line of

such general statement of substandard quality ("Good Food—Not High Grade") a new line, as specified after the corresponding designation of paragraph (b)(1) of this section which the canned pears fail to meet, as follows:

(i) "Not tender".
(ii) "Small halves" or "small quarters", as the case may be.
(iii) "Mixed sizes".
(iv) "Excess peel".
(v) "Blemished".
(vi) "Unevenly trimmed".
(vii) "Partly crushed or broken".
(viii) "Excessive core".
(ix) "Excessive core".
(x) "Extraneous plant material".
(xi) "Excessive seeds".

* * * * *

Interested persons may, on or before September 25, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 10, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-20383 Filed 7-24-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 55]

[LR-218-76]

INCOME TAX

Real Estate Investment Trusts

Corrections

In FR Doc. 78-18613 appearing on page 29317 in the issue for Friday, July 7, 1978, the following corrections should be made:

1. In the thirteenth line at the second full paragraph appearing in the middle column on page 29328 the number "2" should read, "20".

2. In paragraph number (2) appearing under § 1.857-2 in the first column on page 29333, the last line should read, "are not allowed".

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 932-2]

APPROVAL AND PROMULGATION OF IMPLEMENTAION PLANS

Revisions to the Tulare County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to take action on revisions to the Tulare County Air Pollution Control District's (APCD) rules and regulations which were submitted to EPA by the California Air Resources Board for the purpose of revising the California State Implementaion Plan (SIP). In addition, EPA is proposing to disapprove certain agricultural burning exemption rules which were previously not acted upon. EPA is also proposing to disapprove portions of rules which are now part of the applicable SIP. The intended effect of this proposal is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to August 24, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Tulare County Air Pollution Control District, Health Building, County Civic Center, Visalia, Calif. 93277.
California Air Resources Board, 1102 "Q" Street, P.O. 2815, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FUTHER INFORMATION CONTACT:

Wayne A. Blackard, EPA, Region IX, 415-556-7882.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on October 13, 1977:

Rule 108, Stack monitoring.
Rule 412.1, Transfer of gasoline into vehicle fuel tanks.

The State also submitted regulations concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on October 13, 1977. These NSPS and NESHAPS regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under section 110 of the act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

In the FEDERAL REGISTER notice dated August 22, 1977 (42 FR 42219), action was deferred on certain agricultural burning rules; namely, section 417.1(e)(1), (e)(3), and (e)(4) submitted on January 10, 1975. These rules are now being proposed for disapproval as follows:

Section 417.1(e)(1), Agricultural burning, exceptions, is proposed to be disapproved since it allows the air pollution control officer to authorize agricultural burning on no-burn days if denial of such permission would threaten economic loss. Economic factors are an impermissible basis upon which to condition the granting of variances from the emission limitations absent a showing that all other requirements of section 110 of the Clean Air Act as well as National Ambient Air Quality Standards (NAAQS) will be met.

Section 417.1(e)(3), Agricultural burning, exceptions, is proposed to be disapproved because it exempts open burning in agricultural operations above 3,000 feet mean sea level and a control strategy demonstration showing that this exemption will not interfere with the attainment and maintenance of the NAAQS was not submitted. Section 417.1(e)(4), Agricultural burning, exceptions, excempts agricultural burning in areas above 6,000 feet mean sea level. Since paragraphs (e)(3) and (e)(4) taken together replace section 417(III)(B) and they are not separable, they both are proposed to be disapproved. Section 417(III)(B) submitted on June 30, 1972 and previously approved is proposed to be retained.

In addition, we have reevaluated rules concerning agricultural burning and visible emission exemptions and found that a portion of Tulare County APCD's rule was approved in error. We are now proposing to disapprove section 402(c), Exceptions, submitted on November 10, 1976 and previously approved in 40 CFR 52.223. Section 402(c) exempts, "agricultural operations" from the visible emissions rule. Because the term "agricultural operations" is not defined, the rule is vague and unenforceable.

Section 417(III)(A), Exceptions, submitted on June 30, 1972 and previously approved, allows the air pollution control officer to authorize burning on no-burn days. Since this authority has the potential of allowing exceedance of the NAAQS, it is not consistent with the Clean Air Act and is therefore proposed to be disapproved.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The regional administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Public comments are also invited on the proposed disapprovals of the agricultural burning/operations rules. Comments received on or before August 24, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a).)

Dated: June 9, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-20572 Filed 7-24-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 932-3]

APPROVAL AND PROMULGATION OF IMPLEMENTAION PLANS

Revisions to the Fresno County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to take action on revisions to the Fresno County Air Pollution Control District's (APCD) rules and regulations which were submitted to EPA by the Cailfornia Air Resources Board for the purpose of revising the California State Implementaion Plan (SIP). In addition, EPA is proposing to disapprove certain agricultural burning and visible emission exemption rules which were previously not acted upon. EPA is also proposing to disapprove portions of rules which are now part of the applicable SIP. The intended effect of this proposal is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to August 24, 1978.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Fresno County Air Pollution Control District, 1246 L Street, Fresno, Calif. 93271.
California Air Resources Board, 1102 "Q" Street, P.O. 2815, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wayne A. Blackard, EPA, Region IX, 415-556-7882.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on November 4, 1977: Rule 411.1, Gasoline transfer into vehicle fuel tanks, and Rule 416.1g, Cotton gin waste burning.

In addition, regulations were submitted concerning new source review. Those regulations will be considered in a separate FEDERAL REGISTER notice.

The State also submitted regulations concerning new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) on November 4, 1977. These NSPS and NESHAPS regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State implementation plan under section 110 of the act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

In the FEDERAL REGISTER notice dated August 22, 1977 (42 FR 42219), action was deferred on certain agricultural burning and visible emission exemption rules; namely, rules 402 (a) to (g), and rules 416.1 (c)(1), (e)(1), (e)(3), and (e)(4) submitted on October 23, 1974. These rules are now being proposed for approval/disapproval as follows:

Rules 402(c) and (e), exceptions, exempt "agricultural operations" and "other equipment used in agricultural operations" from the visible emissions rule. The terms "agricultural operations" and "other equipment" are not defined in the rules and regulations. Rules 402(c) and (e) are proposed to be disapproved since they are vague and potentially unenforceable.

Rule 402(f), Exceptions, exempts emissions in excess of established limits due to equipment breakdown from a violation of emission limits. This rule is proposed to be disapproved because it renders emission limitations potentially unenforceable and as such could interfere with the attainment and maintenance of the national standards.

All other sections of rule 402 (paragraphs a, b, d, and g) are proposed to be approved as consistent with section 110 of the Clean Air Act.

Rule 416.1(c)(1), Agricultural burning, allows range improvement burning on "no burn" days and authorizes the air pollution control officer to prohibit range improvement burning during the permitted period where "such prohibition is required for maintenance of suitable air quality." This rule is proposed to be disapproved because (1) "suitable air quality" is not defined, and (2) no data was submitted which demonstrates that this additional exemption would not interfere with the attainment and maintenance of the national ambient air quality standards (NAAQA).

Rule 416.1(e)(1), Agricultural burning, exceptions, is proposed to be disapproved since it allows the air pollution control officer to authorize agricultural burning on no-burn days if denial of such permission would threaten economic loss. Economic factors are an impermissible basis upon which to condition the granting of variances from the emission limitations absent a showing that all other requirements of section 110 of the Clean Air Act as well as NAAQS will be met.

Rule 416.1(e)(3), Agricultural burning, exceptions, is proposed to be disapproved because it exempts open

burning in agricultural operations above 3,000 feet mean sea level and a control strategy demonstration showing that this exemption will not interfere with the attainment and maintenance of the NAAQS was not submitted. Rule 416.1(e)(4), Agricultural burning, exceptions, exempts agricultural burning in areas above 6,000 feet mean sea level. Since paragraphs (e)(3) and (e)(4) taken together replace rule 416.1(c)(2) and they are not separable, they both are proposed to be disapproved. Rule 416.1(c)(2) submitted on June 30, 1972 and previously approved under 40 CFR 52.223 is proposed to be retained.

In addition, we have reevaluated rules concerning agricultural burning and visible emission exemptions and found that portions of Fresno County APCD's rules were approved in error. We are now proposing to disapprove Rules 402 (c) and (e), exceptions, submitted on June 30, 1972 and previously approved in 40 CFR 52.223 for the reasons discussed above regarding Rules 402 (c) and (e) submitted on October 23, 1974.

Rule 416.1(c)(1), Agricultural burning, exceptions, submitted on June 30, 1972 and previously approved, allows the air pollution control officer to authorize burning on no-burn days. Since this authority has the potential of allowing exceedance of the NAAQS, it is not consistent with the clean Air Act and is therefore proposed to be disapproved.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Public comments are also invited on the proposed disapprovals of the agricultural burning and visible emission exemption rules. Comments received on or before August 24, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: June 9, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-20569 Filed 7-24-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[Docket No. 9-77-23; FRL 932-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Sequoiaboard, Wickes Forest Industries Division of the Wickes Corporation, Chowchilla, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Sequoiaboard, Wickes Forest Industries Division of the Wickes Corp. The order requires the company to bring air emissions from its particle board manufacturing facility in Chowchilla, Calif. into compliance with certain regulations contained in the federally approved California State implementation plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by December 31, 1978. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before August 24, 1978, and requests for a public hearing must be received on or before August 9, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Material supporting the order and public comments received in respone to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

William M. Thurston, Chief, Case Development Section, Air and Hazardous Materials Branch, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-6150.

SUPPLEMENTARY INFORMATION: Sequoiaboard operates a particle board manufacturing facility at Chowchilla, Calif. The proposed order addresses emissions from the wet and dry rotary driers at this facility, which are subject to Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406. The regulation limits the emissions of particulate matter, and is part of the federally approved California State implementation plan. The order requires final compliance with the regulation by December 31, 1978, and the source has consented to its terms. The first increment of the order's compliance schedule (section I.A. of the order) has been completed, in that, on April 24, 1978, Sequoiaboard awarded a contract for the installation of emission control equipment on their wet and dry rotary driers.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the agency's final action on the order in 40 CFR part 65.

The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, and disapproval of an order under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413 and 7601.)

Dated: July 3, 1978.

SHEILA M. PRINDIRVILLE,
Acting Regional Administrator, Environmental Protection Agency, Region IX.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.90 to read as follows:

§ 65.90 Federal delayed compliance orders issued under sections 113(d) (1), (3), and (4) of the Act.

In the matter of Sequoiaboard, Wickes Forest Industries, Division of the Wickes Corp., Chowchilla, Calif., proceeding under § 113(d)(1) of the Clean Air Act, as amended, docket No. 9-77-23.

ORDER

The following order is issued this date pursuant to section 113(d)(1) of the Clean Air Act, as amended, 42 USC § 7401 et seq. (hereinafter referred to as the "Act"). This order contains a schedule for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of California has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On September 22, 1977, the Director, Enforcement Division, EPA, Region IX, pursuant to authority delegated by the Administrator and redelegated by the Regional Administrator, found that the Sequoiaboard plant located in Chowchilla, Calif., was in violation of Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406 dealing with the control of particulate matter emissions, in that source tests performed on Sequoiaboard's dry rotary drier showed the particulate matter emissions to be in excess of the allowable limitations.

On November 22, 1977, the Director, Enforcement Division, EPA, Region IX, pursuant to authority delegated by the Administrator and redelegated by the Regional Administrator, found that the Sequoiaboard plant located in Chowchilla, Calif., was in violation of Madera County Air Pollution Control District regulation IV, rules 405 and 406 dealing with the control of particulate matter emissions, in that source tests performed on Sequoiaboard's wet rotary drier showed the particulate matter emissions to be in excess of the allowable limitations.

The violations described in the Director's notifications of September 22 and November 22, 1977, have continued beyond the 30th day after the date of the Enforcement Division Director's notification.

After a thorough investigation of all relevant facts, including the seriousness of said violations, it has been determined that compliance in accordance with the schedule hereinafter set forth as an expeditious as practicable.

ORDERED

I. That Sequoiaboard shall complete the following acts with respect to its wet and dry rotary driers for the control of particulate matter emissions on or before the dates specified:

A. April 30, 1978—Award contracts or issue purchase orders for emission control equipment.

B. August 31, 1978—Initiate on-site construction and/or installation of emission control equipment.

C. October 31, 1978—Complete installation of emission control equipment.

D. December 31, 1978—Complete shakedown operations and achieve final compliance with Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406 at the dry rotary drier and rules 405 and 406 at the wet rotary drier.

II. That Sequoiaboard shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission reduction (taking into account the requirements for which compliance is ordered in section I above), and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406 insofar as Sequoiaboard is able to comply during the period this order is in effect:

A. Particulate matter emissions from the wet rotary drier shall not exceed 18.2 lbs/hr or 0.1 gr/DSCF.

B. Particulate matter emissions from the dry rotary drier shall not exceed 36.8 lbs/hr or 0.158 gr/DSCF.

III. That Sequoiaboard is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That Sequoiaboard shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

A. December 31, 1978—conduct particulate matter performance tests on the wet and dry rotary driers in accordance with appendix A, 40 CFR Part 60, methods 1 through 5.

B. January 15, 1979—submit test results to demonstrate compliance with regulation IV, rules 404, 405, and 406 of the Madera County Air Pollution Control District which have been approved as part of the State implementation plan (SIP). These performance test results must contain at least the information listed in attachment I of this order.

C. Sixty (60) days prior to conducting the tests required by section IV.A above—submit a source test plan for the wet and dry rotary driers which includes the information specified in attachment II of this order to the Director, Enforcement Division, EPA, Region IX.

D. Thirty (30) days prior to conducting the tests specified in section IV.A above—notify the Director, Enforcement Division, EPA, Region IX of the scheduled test date(s).

E. No later than 5 days following the date for completion of each increment of progress required by section I above—certify in writing to the Director, Enforcement Division, EPA, Region IX whether such increment has been met.

V. Nothing herein shall affect the responsibility of Sequoiaboard to comply with State or local regulations, other than those specified in this order.

VI. Sequoiaboard is hereby notified that your failure to achieve compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Sequoiaboard will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VII. This order shall be terminated in accordance with section 113(d)(8) of the act if the Administrator determines on the record, after notice and hearing, that an inability to comply with regulation IV, rules 404, 405, and 406 of the Madera County Air Pollution Control District no longer exists.

VIII. Violation of any requirement of this order may result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b) or (c) of the act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of regulation IV, rules 404, 405, and 406 of the Madera County Air Pollution Control District in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the act.

IX. This order is effective July 25, 1978.

Dated:————.

PAUL DE FALCO, JR.,
Regional Administrator.

The Wickes Corp. acknowledges that Sequoiaboard of the Wickes Forest Industries Division is in violation of Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406. Furthermore, the company has reviewed this order, believes it to be a reasonable means to attain compliance with Madera County Air Pollution Control District regulation IV, rules 404, 405, and 406 and consents to the terms of the order.

Dated: April 4, 1978.

T. J. HEDRICK,
Senior Vice President, Wickes Corp.

ATTACHMENT I

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX, SURVEILLANCE AND ANALYSIS DIVISION, SOURCE TEST REPORT FORMAT

The source test report should contain all data relevant to the tests which were conducted. A description of the process being tested, the operating conditions under which the tests were conducted, the test procedures used, and the results of the tests should all be included in the report. The following information should be provided:

I. *Introduction.*

A. Plant name, address, and location.

B. Dates of testing.

C. Name and address of the testing organization and the name of test team supervisor.
D. Purpose of the test.
E. Pollutants measured.
F. Names of observers.
II. *Summary.*
A. Emission results.
B. Applicable regulations showing allowable emissions.
C. Process data as related to the determination of compliance.
D. Description of pollutants measured and samples collected.
E. Visible emissions summary during tests.
F. Deviations from standard source test procedures or normal operating conditions.
III. *Process description.*
A. Description of process including emission control equipment.
B. Maximum rated operating capacity of the process.
C. Flow diagram of the process.
D. Type and quantity of raw materials and finished products processed during the tests.
E. Process data monitored during the tests.
F. Actual percent of maximum operating capacity of the process during the tests.
IV. *Sampling procedure.*
A. Description of the sampling train and the field procedures used.
B. Description of sample recovery and analytical procedures used.
C. Sketch indicating sampling port locations relative to the process, the control equipment, and any upstream or downstream flow disturbances.
D. Sketch of cross section of stack showing traverse point locations.
E. Description of the quality assurance procedures followed by the laboratory for the analytical procedures.
F. Description of chain of custody procedures followed to insure the integrity of the samples.
V. *Test results.*
A. Tabulations of results showing a comparison between actual emission rates and allowable emission rates.
B. Discussion of significance of results relative to operating parameters and emission regulations.
C. Discussion of significance of divergences from normal sampling procedures or normal operating conditions which could have an effect on test results. Where divergences occurred, calculate the positive or negative bias in the results.
VI. *Calculations and data reductions methods.*
A. Description of computational methods used including equations used to obtain final emission results from field data.

APPENDIX

1. Copies of all field data collected during the tests including sample data sheets and process operation logs.
2. Copies of all analytical laboratory data sheets.
3. Copies of calculation sheets.
4. Copies of sampling equipment and calibration data sheets.
5. Names and titles of personnel and organizations participating in the tests.
6. Visible emission observation sheets for observations performed during the tests.

ATTACHMENT II

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IX, SURVEILLANCE AND ANALYSIS DIVISION, SOURCE TEST PLAN

The information specified below must be submitted to the Region IX Office of EPA at least 30 days prior to the scheduled test date. This information is required in order to insure that proper test methods and procedures are utilized. The Region IX Office will review the test plan, and in the event of any deficiencies or comments concerning the plan, will contact the company to arrange a meeting to discuss the test procedures. Submittal of this information will minimize the possibility of a test being rejected as a result of improper sampling or data collection procedures.

All testing shall be performed in strict accordance with the specified procedures.

A satisfactory test shall consist of three runs. Any variations in the sampling or analytical procedures must receive approval from this office prior to testing. Appropriate chain of custody procedures must be followed during the sampling and analysis.

The following information should be included in the source test plan.

1. Source information:
A. Name, address, and location of the facility being tested.
B. Responsible persons at the facility, and telephone number.
2. Testing firm information:
A. Name and address of the firm conducting the testing.
B. Responsible person at the testing firm, and telephone number.
3. Sampling equipment:
A. A description of the emission sampling equipment including a schematic diagram of the sampling train.
4. Procedures:
A. Types of pollutants to be sampled.
B. A description of the sampling analysis procedures.
C. Documentation for any proposed variations from the specified procedures.
5. Emission point information:
A. A sketch with dimensions indicating the flow of exhaust gases from the process through the control equipment and associated duct work to the stack.
B. A diagram of the stack showing the dimensions and the configuration of the sampling, and the distances to the nearest upstream and downstream flow interferences.
C. A cross-sectional sketch of the stack at the sampling location, showing the locations of the sampling traverse points.
D. Estimated flue gas conditions at the sampling location, including temperature, moisture content, and velocity.
6. Process equipment:
A. A description of the process operation, including a process flow sheet.
B. Type and quantity of raw materials, catalysts, and products being used or produced in the process.
C. Maximum rated capacity of the process.
D. Actual maximum operating capacity of the process.
E. Operating capacity during the previous six months period.
F. Process data to be monitored to insure representative operation during the test.
G. Normal process operating schedule during a 24-hour operating period.
H. Normal maintenance schedule for this process.
I. Type of feed stock or fuel that causes the greatest individual emissions, and the percent of annual production for which these materials are used.
7. Control equipment:
A. Description of emission control system, including the types of control equipment, manufacturer of control equipment, the rated capacity and efficiency of the control equipment.
B. Data to be monitored and recorded, to insure representative operation of the control equipment during testing.
C. Minimum acceptable values of all control device parameters, such as flow rates, pressure drops, temperature, and voltage of electrical input.
D. Description of any conditioning of gases prior to control device.
E. Normal maintenance schedule on control equipment for the previous year.
8. Data sheets:
A. Copies of field data sheets to be used during the test.
9. Chain of custody:
A. A description of the procedures that will be followed to maintain the integrity of the samples collected.
B. Copies of chain of custody seals and data sheets.
10. Quality control:
(The following items should be available to the source test observer prior to the start of the test.)
A. Calibration sheets for the dry gas meter, pitot tube, nozzle, and other equipment that requires calibration.
B. Quality assurance control charts for the analytical procedures to be used in the analysis of the test samples.
C. A list of preweighed filters to be used during particulate emission testing.

[FR Doc. 78-20564 Filed 7-24-78; 8:45 am]

[6560-01]

Office of Pesticide Programs

[40 CFR Part 162]

[FRL 913-3; OPP-30021]

CONDITIONAL REGISTRATION

Advance Notice of Interim Final and Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Program.

ACTION: Advance notice of interim final and proposed rulemaking re: Conditional registration.

SUMMARY: The Administrator of the EPA has authorized the development of interim final and proposed regulations for the conditional registration of pesticides under proposed section 3(c)(7), an amendment to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Although the proposed amendment has not yet been approved, the Agency intends to proceed with preparation of the draft regulations with promulgation contin-

gent upon signature of that amendment.

DATE: Comments must be received on or before August 24, 1978.

ADDRESS: Send comments to: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room E-401, 401 M Street SW., Washington, D.C. 20460. Comments should bear the identifying notation "OPP-30021"; all written comments filed will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Robert Rose or Jean Frane, Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-317, 401 M Street SW., Washington, D.C. 20460, 202-755-8930.

SUPPLEMENTARY INFORMATION: The Agency is particularly seeking to implement that section of the legislation dealing with conditional registration, and is thus proposing to promulgate both an interim final and a proposed regulation, depending upon the type of pesticide product registration. The interim final regulation would become effective upon promulgation, but would be subject to revision based on comments received after publication. The proposed regulation, although published at the same time, would be subject to further comments and subsequent final rulemaking. The Agency is soliciting comments at this time for consideration in the preparation of both regulations.

The regulations will address the registration of pesticide products on a conditional basis, that is, contingent upon the later submission of certain data normally required prior to registration. The extent of data deferral and the conditions would depend upon the type of registration granted. The interim final regulation will address two types of conditional registration authorized by the amended FIFRA: (1) product and uses identical or similar to existing ones; and (2) new uses not currently registered. Registrations of the first type are expected to make up the bulk of conditional registrations issued. Conditional registrations of new uses will involve the submission and review of sufficient data to insure that an incremental risk assessment can be made. These registrations are expected to be utilized primarily to accommodate minor food uses for which no alternatives are available. The Agency believes that interim final regulations will allow conditional registrations of these types to be implemented rapidly and effectively.

Conditional registrations of new chemicals will be subject to very stringent requirements and conditions, imposed both by the legislation and by the Agency itself. Such registrations are expected to be infrequently granted; nonetheless, because they will require a risk assessment to be made with less than the full complement of data immediately available, they are expected to be more controversial. Therefore, the Agency intends to propose regulations for conditional registration of new chemicals, with full public participation and airing of issues and views, prior to promulgation of a final regulation.

The regulations will specifically discuss the applicable definitions, the data and other requirements, and the procedures and conditions under which conditional registrations of each type will be granted. In addition, procedures for the denial and cancellation of conditional registrations will be addressed.

Related issues which will impact on the regulations, and which commenters may wish to address include (1) compensation for and exclusive use of data; (2) the so-called "horizontal line," whereby registrants of formulated products need not submit safety data on the purchased manufacturing use product; (3) the Agency's intent to use proposed registration guidelines on chemistry, toxicology, and environmental safety as the determinant of data requirements for compensation purposes; and (4) the use of the EPA Data Catalog as the prime reference source for both applicants and the Agency for citation of available data to meet the requirements.

EPA's goal is to have an interim final and proposed regulation promulgated a short time after the amendment is passed by Congress and signed by the President. Therefore, EPA invites comment on the issues discussed above, and any other relevant matters.

NOTE.—This advance notice of interim final and proposed rulemaking is issued under the authority of section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.).

Dated: July 17, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-20517 Filed 7-24-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

CORONADO NATIONAL FOREST

To Prepare and Consider an Environmental Statement

This proposal concerns the preparation of a comprehensive land management plan and environmentl statement for the Coronado National Forest, Region 3, Forest Service, USDA, in response to regulations developed to implement requirements of the National Forest Management Act.

Intensive public involvement to date has resulted in specific issues and concerns being identified which will be evaluated during development of this plan. Public involvement will continue throughout the planning process so that all pertinent issues and concerns can be included. The responsible official for preparation of the plan and environmental statement is the regional forester, Southwestern region, USDA Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87102. Comments will be received by the Forest Supervisor, Coronado National Forest, Federal Building, 301 West Congress, Tucson, Ariz. 85701.

GARY E. CARGILL,
Acting Regional Forester,
Region 3.

JULY 17, 1978.

[FR Doc. 78-20576 Filed 7-24-78; 8:45 am]

[3410-15]

Rural Electrification Administration

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. ET AL.

Draft Environmental Impact Statement

In the matter of: Tri-State Generation & Transmission Association, Inc., 12076 Grant Street, Thornton, Colo. 80241 and Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, N. Dak. 58501.

Notice is hereby given that the Rural Electrification Administration has prepared a draft Environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with the proposed use of REA guaranteed loan funds by Basin Electric Power Cooperative and Tri-State Generation & Transmission Association, Inc., to finance a portion of proposed transmission facilities in the State of Nebraska for the Nebraska public power district. The facilities are proposed to be constructed in Nebraska in the counties of Cheyenne, Deuel, Keith, Lincoln, Custer, Sherman, Buffalo, Frontier, and Red Willow, The transmission facilities covered by this statement include the following:

1. Approximately 80 miles of 345 kV transmission line from Sidney, Nebr., to Keystone, Nebr.
2. Approximately 30 miles of 345 kV transmission line from Keystone, Nebr. to the Gerald Gentleman Power Station near Sutherland, Nebr.
3. Approximately 130 miles of 345 kV transmission line from the Gerald Gentleman Power Station to Sweetwater, Nebr.
4. Approximately 14 miles of 345 kV transmission line from Sweetwater, Nebr., to Riverdale, Nebr.
5. Approximately 75 miles of 345 kV transmission line from the Gerald Gentleman Power Station to Red Willow, Nebr.

Items 3 and 5 listed above include 30 miles of double circuit construction proposed for the Gerald Gentleman to Sweetwater and Gerald Gentleman to Red Willow transmission line segments.

The statement also covers new substations at Keystone, Sweetwater, and Red Willow, and additions to existing substations at Sidney, Gerald Gentleman, and Riverdale.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies, which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA draft environmental impact statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The draft environmental impact statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., room 1268, or at Tri-State's or Basin Electric's address indicated above.

Comments concerning the environmental impact of the construction proposed should by addressed to Mr. Richter at the address given above. Comments must be received within sixty (60) days of the date of this notice to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds), will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 20th day of July, 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-20602 Filed 7-24-78; 8:45 am]

[1505-01]

CIVIL AERONAUTICS BOARD

[Docket No. 33019; Order 78-7-41]

CHICAGO-MIDWAY EXPANDED SERVICE PROCEEDING

Order Instituting Investigation

Correction

In FR Doc. 78-19954 appearing at page 31053 in the issue for Wednesday, July 19, 1978, insert the following material in the third column of page 31054 after the second full paragraph:

Accordingly, *it is ordered*, That: 1. A proceeding to be designated the *Chicago-Midway Expanded Service Proceeding* is instituted in Docket 33019, and shall be set for hearing in accordance with the procedures set forth below.

2. The issues in this proceeding shall be: (a) Whether the public convenience and necessity require the grant of additional certificated route authority between Chicago's Midway Airport, on the one hand, and some or all of the following points: Buffalo, N.Y.; Cincinnati, Ohio; Columbus, Ohio; Dayton, Ohio; Des Moines, Iowa; Louisville, Ky.; Memphis, Tenn.; Omaha, Nebr.; Indianapolis, Ind.; Boston, Mass.; Hartford, Conn.; New York, N.Y./Newark, N.J.; Philadelphia, Pa.; Baltimore, Md./Washington, D.C.; Atlanta, Ga.; Denver, Colo.; and Dallas/Ft. Worth, Tex.

[6320-01]

DALLAS/FORT WORTH/HOUSTON-PHILADELPHIA SERVICE INVESTIGATION

[Docket No. 32343; Order 78-7-75]

Order on Motion To Consolidate

Issued under delegated authority July 19, 1978.

A Motion to Consolidate has been filed by Delta Airlines, Inc., seeking the consolidation of its application of January 5, 1978, in Docket 31952 for Dallas/Ft. Worth-Philadelphia nonstop authority with like applications under consideration in this proceeding. In Order 78-4-6, served April 4, 1978, the Board delegated its consolidation authority to the presiding Administrative Law Judge, where applications conforming to the scope of the proceeding, as here, have been filed.

Accordingly, *it is ordered*, That: The Motion to Consolidate filed by Delta Airlines, Inc. is granted and the application of Delta Airlines, Inc. in Docket 31952 is consolidated into this proceeding.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-20603 Filed 7-24-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

TITLE CHANGE IN NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is a notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Administrator, Federal Extension Service, Science and Education to Deputy Director for Extension, Science and Education Administration, Assistant Secretary for Conservation, Research and Education.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-20535 Filed 7-24-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

AUBURN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00371. Applicant: Auburn University, 103 Textile Building, Auburn, Ala. 36830. Article: Rothschild Solid-State Tensiometer, Model No. R1192 with High-Speed Recorder, Model No. HE 16 and 100 gram Full Scale Measuring Head. Manufacturer: Rothschild, Switzerland. Intended use of article: The article is intended to be used for the study of yarn manufacturing, yarn preparatory and fabric manufacturing systems as to the effect of various parameters, including yarn tensions, on process efficiency and product quality. These studies include: (1) The effect of traveler speed in ring spinning on resultant tension and yarn properties; (2) The effect of winding speed on resultant tension, yarn package hardness and yarn properties, and (3) Generally, specific studies of this type in other yarn and fabric processes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 16, 1976). Reasons: This application is a resubmission of Docket No. 77-00045 which was denied without prejudice to resubmission on June 7, 1977 for informational deficiencies. The foreign article provides the specification of six multiple recorder speeds (2.5, 5, 10, 25, 50, and 100 millimeters per second). The National Bureau of Standards advises in its memorandum dated June 23, 1978 that (1) the specification of the article described above is pertinent to the applicant's intended purposes and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended uses which was being manufactured in the United States at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director
Statutory Import Programs Staff.

[FR Doc. 78-20499 Filed 7-24-78; 8:45 am]

[3510-25]

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, August 9, 1978, at 9:30 a.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to mul-

tilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the committee during the executive session of the meeting have been properly classified under Executive Order 11652. All committee members have appropriate security clearances.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 7978).

Dated: July 20, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-20608 File 7-24-78; 8:45 am]

[3510-25]

DHEW, NIH, NHLBI—BETHESDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00148. Applicant: Department of Health, Education, and Welfare, NIH-NHLBI, Bethesda 20014, Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of heart and lung tissues from patients and experimental animals. Investigations will include ultrastructural studies on normal and pathologic human and animal tissues, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, and subcellular changes induced in various types of cardiac and pulmonary cells by disease states.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated May 31, 1978, that: (1) Cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies, and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-20500 Filed 7-24-78; 8:45 am]

[3510-25]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, August 9, 1978, at 9 a.m. in Conference Room A, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to: (a) Maintenance of the processor performance tables and further investigation of total systems performance; and (b) Investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: July 20, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-20609 Filed 7-24-78; 8:45 am]

[3510-25]

RENSSELAER POLYTECHNIC INSTITUTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00167. Applicant: Rensselaer Polytechnic Institute, 110 Eighth Street, Troy, N.Y. 12181. Article: Direct Shear Apparatus, Model H-12, and accessories. Manufacturer: Geonor, A/S, Norway. Intended use of article: The article is intended to be used in studies of the behavior of soils subjected to dynamic or cyclic loading conditions (e.g., earthquakes). The article will also be used for educational purposes in the courses: Advanced Soil Mechanics and Foundation Engineering I, II, Advanced Techniques in Analysis and Design in Soil Mechanics and Foundation Engineering and Soil Dynamics, Behavior of Soil Subjected to Dynamic and Cyclic Loading (e.g., earthquakes, wave loading, machine foundations, traffic loading on pavements, etc.).

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides operation in a cyclic shear mode. The National Bureau of Standards advises in its memorandum dated June 13, 1978, that: (1) The specification of the article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA
Director, Statutory Import Programs Staff.

[FR Doc. 78-20501 Filed 7-24-78; 8:45 am]

[3510-25]

UNIVERSITY OF ILLINOIS ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before August 14, 1978. Regulations (15 CFR 301.9) issued under the cited act, prescribe the requirements for comments. A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00284. Applicant: University of Illinois Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Reflection-Transmission Unit for Beckman-RIIC FS-720 Fourier infrared spectrometer. Manufacturer: Beckman-RIIC Ltd., United Kingdom. Intended use of article: The article is intended to be used for reflectance and transmission studies of metals such as $TaSe_2$ and V_3Si which have interactions between vibrations of the atoms and the electrons responsible for electrical conductivity. The frequency range of interest is the far infrared. Application received by Commissioner of Customs: June 21, 1978.

Docket No. 78-00286. Applicant: University of California, San Diego, Gilman Drive and La Jolla Village Drive, La Jolla, Calif. 92093. Article: Multiple sample replicator and accessories. Manufacturer: Biotech, Switzerland. Intended use of article: The article is intended to be used to meter out replicate aliquots of lymphoid cell culture supernatants which may be added to fresh cultures or may be assayed for the presence of antibody. Its purpose is to make possible accurate limiting dilution assays of the frequency of responding lymphoid cells during research into the basic mechanisms of the immune response. Application received by Commissioner of Customs: June 21, 1978.

Docket No. 78-00294. Applicant: Bureau of Biologics, Food and Drug Administration, Building 29, Room 514, 8800 Rockville Pike, Bethesda, Md. 20014. Article: Electron Microscope, Model H-500-L and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for ultrastructural studies pertinent to control and research activities concerned with biological products including viral, rick-

ettsial and bacterial vaccines, allergenic products, blood and blood fractions or derivatives and diagnostic reagents. The studies to be conducted will include the following:

(1) The study of viral suspensions to define morphological characteristics and antigenic response of candidate strains of viruses used for the production of viral vaccines.
(2) The study of viral vaccines to insure safety, potency and efficiency of these vaccines, e.g., the presence of extraneous viruses or bacterial in the finished product.
(3) The study of thin sections or surface morphology of cells used as substrates in the production of vaccines to define growth characteristics or normal ultrastructure and for the presence of extraneous contaminating microbial agents such as bacteria, mycoplasma, yeast and viruses including candidate oncogenic viruses.
(4) The development of animal model systems for the study of the pathogenesis of diseases, e.g., the study of hepatitis in chimpanzees and monkeys inoculated with serum from patients suffering from hepatitis, icterogenic pools of serum known to be responsible for the production of hepatitis in humans or blood products suspected of being icterogenic.
(5) The study of blood, blood clots, blood cells, and blood derivatives under varying conditions, e.g., the effects of anti- coagulants and varying storage conditions on red blood cells and blood platelets ultrastructure relative to setting standards for storage of these fragile blood components.
(6) The study of particulate contaminants in products regulated by the FDA.
(7) The study of the relationship of human diseases, sylvan hosts, and ectoparasite vectors in the transmission of diseases.
(8) The study of bacterial morphology, at the ultrastructural level including surface structures, e.g., fresh isolates of gonococci contain large numbers of pili.
(9) The study of vaccines produced from disrupted viruses, e.g., an experimental vaccine produced from the surface antigen of Hepatitis B is examined in the transmission microscope using a negative staining technique, and
(10) The study of nucleic acids of viruses and bacteria, e.g., extra chromosomal DNA of bacteria (plasmids) are associated with antibiotic resistances and other characteristics which can be transferred to other strains of bacteria by various means.

Application received by Commissioner of Customs: June 23, 1978.

Docket No. 78-00297. Applicant: Medical College of Georgia, 1120 Fifteenth Street, Augusta, Ga. 30901. Article: Electron Microscope, Model EM 400 HMG with Magnification Goniometer and Accessories. Manufacturer: Phillips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for study of varied material or phenomena which will include the following:

(1) Ultrastructural and immunomorphology of human glomerular disease.
(2) Development of the human fetal kidney.
(3) Ultrastructural and cytochemical observations on neurosecretory product.
(4) Fine structure in human myopathies.
(5) Biologic fine structure of human malignant neoplasms.
(6) Fine structural studies on diseased parathyroid.
(7) Ultrastructural studies on the spleen in sickle cell disease.

In addition, the article will be used for educational purposes in the courses:

Pathology resident training in biological electron microscopy.
Phase II, pathology.
Fellowship in biological fine structure.
PHT 520, introductory electron microscopy.
PHT 522, renal biopsies.
PHT 523, special techniques in histochemistry and neuroanatomy.

The primary objective of these courses is to familiarize the students with the capabilities, applications and technical aspects of electron microscopy as it applies to biopathology. Application received by Commissioner of Customs: June 23, 1978.

Docket No. 78-00299. Applicant: U.S. Department of Agriculture, Science and Education Administration, FR, Room 205, Building 004, ARC-West, Beltsville, Md. 20705. Article: LKB 2128-010 UM Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies to be conducted on the pathological anatomy of higher plant cell interactions with virus, fungus, and bacterial pathogens; fungus-virus interactions; and virus-insect cell interactions. Studies will include investigations of the structural formation of viruses and virus-induced products of infection at the ultrastructural level. Chemical composition of diseased tissues is studied by histochemical and cytochemical methods in observations of thick and ultrathin sections. The objectives of these studies are to investigate pathogen-host interactions both structurally and chemically as a basis for developing improved methods of disease control with an increased understanding of host cell modifications and pathogen development in the processes of disease development. Application received by Commissioner of Customs: June 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-20505 Filed 7-24-78; 8:45 am]

[3510-25]

UNIVERSITY OF ILLINOIS URBANA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00098. Applicant: University of Illinois Urbana—Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Far Infra-red Spectrometer System, Model IR-720M. Manufacturer: Beckman-RIIC Ltd., United Kingdom. Intended Use of Article: The article is intended to be used for research on various properties of materials which will include:

(1) Optical band structure studies.
(2) Infrared studies of adsorbed surface species—understanding the detailed mechanisms of both heterogeneously and homogeneously catalyzed reactions.
(3) Far infrared optical properties of materials.
(4) FIR spectroscopy of high-spin Fe^{2+} and Fe^{3+} complexes: fine structure, magnetic moment and exchange interaction.
(5) Far infrared quantum electronics—study of quantum electronics techniques in the far infrared (FIR) spectral region.
(6) Electron transfer in metalloproteins—understanding of the fundamental nature of electron transfer between transition metal ion sites in metalloproteins.
(7) Identification of residual impurities and the study of impurity interactions in high purity compounds semiconductors.
(8) Far infrared diagnosis of Tokamak fusion plasmas.
(9) Impurity, donor and free carrier states in Si MIS structures.
(10) Structure and dynamics of inorganic and related crystals.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 21, 1977).

REASONS: In response to Question 8 the applicant alleges that the foreign article provides the following pertinent features: (1) Wavelength range 10-500 reciprocal centimeters (cm^{-1}); (2) Resolution better than 0.1 cm^{-1}; and (3) a sample chamber which must be accessible to the use of long gas cells, cryogenic cold cells and cryostats.

The National Bureau of Standards (NBS) advises in its memorandum dated April 10, 1978 that features (1),

(2), and (3) are pertinent to the applicants' uses within the meaning of Subsection 301.2(n) of the regulations. However, NBS advises that domestic instruments available from Digilab Inc. (Digilab) and Nicolet Instruments Corporation (Nicolet) provide all the pertinent features of the article. As to the specific allegations of the applicant in the reply to Question 8, in the order listed above, the following is noted:

(1) The Digilab FTS-20 Series and the Nicolet Series 7000 both provide a wavelength range of 10-500 cm^{-1}. NBS recommends, and the Department so finds, that the FTS-20 Series and the Series 7000 match the foreign article with respect to feature one.

(2) The Department notes that the specifications for the foreign article state, "using an optional tape punch, it is possible to obtain interferometric data to achieve the limiting resolution of the Michelson interferometer of 0.1 wavenumber * * *." We also note that the purchase order for the foreign article does not show that an optional tape punch was ordered with the foreign article. Because subsections 301.2(d) and 301.6(a)(3) of the regulations limit our consideration to accessories ordered as a part of the foreign article any capability conferred on the article by the optional tape punch cannot be a factor in our decision. In any event, the Digilab FTS-20 Series and the Nicolet 7000 Series both provide a resolution better than 0.1 cm^{-1}. NBS recommends and the Department finds, that the FTS-20 Series and 7000 Series match the foreign article with respect to feature two.

(3) The foreign article provides a sample chamber size of 8.37 inches (") in width, 10.25" in length or depth and 5.75" in height with a volume of 493.3 cubic inches. The Nicolet 7000 Series provides a sample chamber size of 8" in width, 30" in length or depth and 9" in height with a volume of 2160 cubic inches. The Digilab FTS-20 Series provides a sample chamber size of 6.75" in width, 15.5" in length or depth and 8.9" in height with a volume of 931.2 cubic inches. In comparing the sample chamber sizes and volumes of the above domestic instruments and the foreign article, the Department finds the sample chamber accessibility of the domestic FTS-20 Series and the Nicolet 7000 Series matches or exceeds the foreign article in regards to accessibility to the sample chamber for various long gas cells, cryogenic cold cells and cryostats. NBS had advised that domestic instruments available from Digilab and Nicolet would accommodate long gas cells, cryogenic cold cells and cryostats.

In response to Question 8 the applicant concedes that domestic instruments manufactured by Nicolet and Digilab are fine domestic instruments but they cost more than twice the price of the foreign article. While cost is an obvious consideration for the institution, subsection 301.2(n) of the regulations specifies that the difference in cost between the domestic and foreign article is not pertinent and cannot be a factor in deliberations on the question of scientific equivalency.

Based on the foregoing considerations, NBS advice, our own review of the application, as well as other factual information in our possession (specifications, textbooks, blueprints, etc.), we find that at the time the foreign article was ordered instruments of either the Digilab FTS-20 Series of the Nicolet 7000 Series were of equivalent scientific value to the foreign article for the purposes set forth in the application.

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 78-20502 Filed 7-24-78; 8:45 am]

[3510-25]

UNIVERSITY OF NEVADA, RENO, NEV.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duly-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00133. Applicant: The University of Nevada, Business Center-North, Reno, Nev. 89557. Article: Fourier Transmission Multi-Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX-100. Manufacturer: JEOL Analytical Instruments, Japan. Intended use of article: The acticle is intended to be used for a variety of studies involving the determination of molecular structure, utilizing ^{13}C, ^{1}H, ^{2}H, ^{15}N, ^{19}F, and ^{31}P nuclear magnetic resonance in the Fourier transform mode. In addition, numerous studies involving computer applications such a kinetics, line shape, analysis and spin systems analysis will be conducted. Studies of the relaxation rates T_1 and $T_{1\rho}$ will also be conducted.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for measuring T_{1rho}, the relaxation time in the rotating frame. The National Bureau of Standards advises in its memorandum dated June 26, 1978 that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this acticle is intended to be used, which is being manufactured in the United States.

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc. 78-20503 Filed 7-24-78; 8:45 am]

[3510-25]

WASHINGTON STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00152. Applicant: Washington State University, Division of Purchasing, Pullman, Wash. 99164. Article: Waferizer Cutterhead for a Hombak Type ZOA 18 Drum Type Wood Flaker and Accessories. Manufacturer: Hombak CmbH, West Germany. Intended use of article: The article is intended to be used for evaluating the potential of converting sawmill waste, plywood waste, and forest slash into wafers for further manufacture into building products. Variables to be researched are: species, moisture content, wafer size and geometry, and type and quality of residue.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which

produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards (NBS) advises in its memorandum dated June 21, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-20504 Filed 7-24-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of cancellation of public meeting.

SUMMARY: Notice is hereby given that the scheduled meeting on August 1-3, 1978, of the Gulf of Mexico Fishery Management Council as published in the FEDERAL REGISTER, Vol. 43, No. 132, page 29599, Monday, July 10, 1978, has been canceled.

FOR FURTHER INFORMATION CONTACT:

Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, telephone 813-228-2815.

Dated: July 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-20561 Filed 7-24-78; 8:45 am]

[3510-22]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL; BILLFISH ADVISORY PANEL, REEF FISH ADVISORY PANEL, COASTAL MIGRATORY PELAGIC ADVISORY PANEL, AND STONE CRAB ADVISORY PANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established Advisory Panels on Billfish, Reef Fish, Coastal Migratory Pelagics and Stone Crabs. These panels will meet to: review drafts of fishery management plans.

DATES: The Billfish Panel will start at 8 a.m. on Tuesday, August 15, 1978, and continue to 4 p.m. The Reef Fish Panel will start at 8 a.m. on Wednesday, August 16, 1978, and continue to 4 p.m. The Coastal Migratory Pelagic Panel will start at 8 a.m. on Thursday, August 17, 1978, and continue to 4 p.m. The Stone Crab Panel will start at 8 a.m. on Friday, August 18, 1978, and continue to 4 p.m. The meetings are open to the public.

ADDRESS: The meetings will take place in the Orlando Room of the Barclay Inn located at 5303 West Kennedy Boulevard, Tampa, Fla.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

Date July 19, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-20490 Filed 7-24-78; 8:45 am]

[3510-22]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Surf Clam Management plan; (2) Mackerel Management plan; (3) Squid Management plan; (4) Butterfish Management plan; and (5) Other administrative matters.

DATES: Committee meetings will begin at 1 p.m. on August 8, 1978. The Council meeting will begin at 8:30 a.m. on August 9, 1978, and will adjourn approximately 4 p.m. on August 10, 1978.

ADDRESS: The meetings will be held at the Hotel Hershey and Country Club, Hershey, Pa.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North & New Streets, Dover, Del. 19901, telephone 302-674-2331.

Date July 19, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-20489 Filed 7-24-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT COUNCIL

Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: The Scientific and Statistical Committee of the Pacific Fishery Management Council established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will hold a public comment period at its August 9-11, 1978, meeting (F.R. Vol. 43, No. 134 page 29974, dated July 12, 1978).

DATES: The public comment period will commence at 3:30 p.m. on August 9, 1978, and adjourn approximately 5 p.m.

ADDRESS: The Scientific and Statistical Committee will meet at the Pine Room of the Renton Inn located 800 Rainier Avenue South, Renton, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 South West Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

Dated: July 19, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-20560 Filed 7-24-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE AF/JACP, 1900 Half Street SW., Washington, D.C. 20324

Patent application 865,268: Interconnection for Planar Electronic Circuits. Filed December 28, 1977.

Patent application 876,444: Low Gamma Photographic Developer. Filed February 9, 1978.

Patent application 876,445: Self-Sealing Fuel Line Assembly. Filed February 9, 1978.

Patent application 878,142: Recoil Motion Distributor for Flexible Ammunition Chuting. Filed February 15, 1978.

Patent application 882,524: Apparatus for Centering a Tubular Fluid Flow Conduit within a Larger Tubular Conduit. Filed March 1, 1978.

Patent 4,076,454: Vortex Generators in Axial Flow Compressor. Filed June 25, 1976, patented February 28, 1978; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building Agricultural Research Service, Hyattsville, Md. 20782

Patent application 878,040: Process for Imparting Water Repellancy to Fibrous Cellulosic Textile Materials. Filed February 15, 1978.

Patent application 878,041: Sized Paper and Method for Producing Same. Filed February 15, 1978.

Patent application 891,953: Extraction of Rubber or Rubberlike Substances From Fibrous Plant Materials. Filed March 31, 1978.

Patent application 891,956: Physio- chemically Designed Fat Compositions From Tallow and Process for Making. Filed March 31, 1978.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent application 880,831: Method and Composition for Removing Calcium Sulfate Scale Deposits from Surfaces. Filed February 24, 1978.

Patent 4,071,473: Preparation and Use of High Surface Area Transition Metal Catalysts. Filed November 3, 1976, patented January 31, 1978; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent application 678,094: Fire Control Correction System for Wind and Target Motion. Filed April 19, 1976.

Patent application 836,324: Apparatus for Launching Stores From a Submerged Vehicle. Filed September 26, 1977.

Patent application 871,861: Alinement Aid. Filed January 24, 1978.

Patent application 874,453: Propagation Sampled Acoustic Line Array. Filed February 2, 1978.

Patent application 875,056: Low Frequency Hydrophone. Filed February 6, 1978.

Patent application 879,555: Liquid Propellant Gun, Positive Displacement Single Valve. Filed February 21, 1978.

Patent application 880,406: Piezoelectric Polymer Membrane Stress Gage. Filed February 23, 1978.

Patent application 885,706: Bi-Metallic Thermal Compensator. Filed March 13, 1978.

Patent application 891,652: Rigid Mount for an Internally Pressurized Tube. Filed March 30, 1978.

Patent 4,021,813: Geometrically Derived Beam Circular Antenna Array. Filed March 5, 1976, patented May 3, 1977; not available NTIS.

Patent 4,022,705: Gas Generating Compositions. Filed March 27, 1975, patented May 10, 1977; not available NTIS.

Patent 4,024,818: Stab-Initiated Explosive Device Containing a Single Explosive Charge. Filed May 16, 1976, patented May 24, 1977; not available NTIS.

Patent 4,025,370: Double Base Propellant Containing Azobisformamide. Filed April 4, 1974, patented May 24, 1977; not available NTIS.

Patent 4,030,427: Armor Plate. Filed October 30, 1974, patented June 21, 1977; not available NTIS.

[FR Doc. 78-20577 Filed 7-24-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

JULY 14, 1978.

The USAF Scientific Advisory Board will conduct a Workshop on Strategic Issues and the ICBM, August 14-25, 1978, at the National Academy of Sciences facilities, Woods Hole, Mass.

The purpose of the meeting is to examine the plans and alternatives for modernization of the land-based ICBM.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-20552 Filed 7-24-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

OFFICE OF ENVIRONMENT

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Study Group on the Global Effects of Carbon Dioxide will meet Saturday, August 12, 1978, at 10:30 a.m., in the Magnolia Room, Hilton Inn, Atlanta Airport, Atlanta, Ga.

The purpose of the Study Group is to give advice to DOE in the development of its role in environmental research dealing with the global environmental effects of increasing levels of carbon dioxide from fossil fuel combustion and related matters. The Group's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area.

The agenda for the meeting is as follows:

1. Call to order.
2. Approval of minutes and agenda.
3. Review of fiscal year 1978 DOE funded CO_2 research.
4. Review of plan for CO_2 effects research.
5. Future program management and assessment.
6. Study group report.
7. Future of study group:
   a. Advisory.
   b. Assessment.
8. Public comment (10-minute rule).
9. Adjournment.

The meeting is open to the public. The chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management Office, 202-566-9969, at least 5 days prior to

the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on July 19, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-20498 Filed 7-24-78; 8:45 am]

[3128-01]

NATIONAL ENERGY EXTENSION SERVICE ADVISORY BOARD

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the National Energy Extension Service Advisory Board will meet Thursday and Friday, August 10-11, 1978, at 9:30 a.m., at the Department of Energy, 20 Massachusetts Avenue NW., Room 4222C, Washington, D.C.

The purpose of the Board is to carry on a continuing review of the operation of the comprehensive Energy Extension Service program and the State Energy Extension Service plans to evaluate their effectiveness in achieving the objectives of the National Energy Extension Service Act (Pub. L. 95-39, Title V) and determining how their operation might be improved in order to further these objectives.

The tentative agenda is:

AUGUST 10

9:30-10:30—Welcome and Introduction
Energy Extension Service (EES) Overview
EES in Perspective (in relation to other related energy activities)
Expectations for the Board
10:30-12—Orientation to the Pilot EES Program
Legislative Overview
State Programs
Technical Support
Barriers to Energy Conservation
Information Sharing
Evaluation
12-1:30—Lunch
1:30-4:30—Proposed National EES Program Regulation
Presentation
Discussion

AUGUST 11

9:30-10:30—Proposed National EES Program Regulation (continued)
10:30-11:30—Adoption of Temporary Board Operational Guidelines
11:30-12:30—EES Topics for Future Meetings
12:30—Public Comments

The meeting is open to the public. The chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on July 19, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-20493 Filed 7-24-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for May 1978

In accordance with the provisions of 10 CFR § 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA) of the DOE, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for May 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production for sale in the east coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier crude oil and for imported and Alaska North Slope crude oil included in the crude oil receipts of California refineries provided in § 211.67(a)(4); June 1978 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for May 1978 is calculated to be .197023.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of May 1978, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .198135 of a barrel of deemed old oil.

The issuance of entitlements for the month May 1978 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of May 1978 is hereby fixed at $8.26, which is the exact differential as reported for the month of May between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of May 1978 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of May 1978 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of May 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through April 1978 pursuant to 10 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior

to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the May 1978 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to insure that Arizona Fuels is not relieved of its May 1978 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the U.S. Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 5,077,428 barrels.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the east coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 9,827,540 barrels for May 1978. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 31,574,929 barrels.

In accordance with § 211.67(a)(4), the number of entitlements issued to each refiner with respect to its refineries located in the State of California has been increased by a number of entitlements equal to the number of barrels of California lower tier crude oil included in its adjusted crude receipts multiplied by .210654 (the result of dividing $1.74 by the entitlement price for May 1978). The number of entitlements issued to each refiner with respect to its refineries located in the State of California has been decreased by a number of entitlements equal to the number of barrels of imported crude oil and Alaska North Slope crude oil that are included in its adjusted crude oil receipts for the month of May 1978 multiplied by .054990 (the aggregate increase in entitlement issuances for California lower tier crude oil divided by the total number of barrels of imported crude oil and Alaska North Slope crude oil included in the adjusted crude oil receipts for May 1978 for all refiners with respect to refineries located in the State of California). Pursuant to § 211.67(a)(4), the number of barrels of California lower tier crude oil, imported crude oil and Alaska North Slope crude oil reported by refiners as to their adjusted crude oil receipts with respect to refineries located in the State of California were as follows:

California lower tier crude oil	7,070,379
Alaska North Slope crude oil	15,174,360
Imported crude oil	11,910,407

The total number of entitlements required to be purchased and sold under this notice is 20,275,343.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for May 1978, the pricing composition and weighted average costs thereof are as follows:

Category	Volumes	Weighted average cost	Percent of total volumes*
Lower tier	93,362,676	$5.82	19.0
Upper tier	91,215,384	12.44	18.6
Exempt domestic:			
Alaskan	36,759,967	12.94	7.5
Stripper	37,266,474	14.47	7.6
Naval petroleum reserve	2,959,466	13.07	.6
Total domestic	261,563,967	10.45	53.3
Total imported	229,066,667	14.49	46.7
Total reported crude oil receipts	490,630,634	12.33	100.0

*Numbers may not add due rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for May 1978 must be made by July 31, 1978.

On or prior to August 10, 1978, each firm which is required to purchase or sell entitlements for the month of May 1978 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of May. The monthly transaction report forms for the month of May have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by July 31, 1978 are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to July 31, 1978, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to subpart G, 10 CFR part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with subpart H of 10 CFR part 205. Any such appeal shall be filed on or before August 24, 1978.

Issued in Washington, D.C. on July 18, 1978.

HAZEL R. ROLLINS,
Deputy Administrator,
Economic Regulatory Administration.

ENTITLEMENTS FOR DOMESTIC CRUDE OIL

May 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	TO MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
-CONSOL'D-SALES	-27,789	0	0	0	0	0	27,789*
A-JOHNSON	0	128,248	0	0	0	0	128,248
ALLIED	131,512	84,984	0	0	0	46,528	0
AMER-PETROFINA	840,577	830,694	0	0	0	9,883	0
AMERADA-HESS	2,450,203	2,407,393	0	145,604	0	42,810	0
AMOCO	9,593,974	6,525,592	0	0	0	3,068,382	0
ANCHOR	914	56,988	0	0	0	0	56,074
APCO	47,823	80,664	0	0	0	0	32,841
ARCO	5,526,503	4,436,417	0	0	0	0	910,114
ARIZONA	87,561	59,772	6,071	0	0	27,789	0
ASAMERA	88,705	149,903	0	0	0	0	61,198
ASHLAND	1,369,738	2,185,126	0	0	0	0	815,388
ASIATIC	0	194,114	0	194,114	0	0	194,114
BASIN	231,122	178,320	0	0	0	52,802	0
BAYOU	35,121	53,971	0	0	0	0	20,850
BEACON	260,720	232,111	83,869	0	0	28,609	0
BELCHER	0	33,806	0	55,806	0	0	55,806
BI-PETRO	7,696	144,977	0	0	0	0	137,281
BP-TRADING	0	454,097 **	0	0	0	0	454,097
BRUIN	16,205	130,771	0	0	0	0	114,566
C&H	0	146	0	0	0	0	146
CALCASIEU	24,884	55,452	0	0	0	0	30,568
CALUMET	24,508	13,487	0	0	0	11,021	0
CANAL	79,077	78,283	0	0	0	794	0
CARIBOU	88,782	106,131	0	0	0	0	17,349
CENTRAL	0	1,478	0	1,478	0	0	1,478
CHAMPLIN	1,511,563	1,256,799	0	0	0	254,764	0
CHARTER	968,608	927,925	451,115	0	0	40,683	0
CHEVRON	5,649,123	6,270,248	0	25,696	0	0	621,125
CIRILLO	0	4,313	-8,498	12,811	0	0	4,313
CITGO	2,192,929	1,494,736	0	0	0	698,193	0
CLAIBORNE	92,675	61,013	0	0	0	31,662	0
CLARK	221,318	731,865	0	0	0	0	510,547
COASTAL	248,727	1,345,056	0	94,862	0	0	1,094,329

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
COLONIAL	0	8,411	0	8,411	0	0	8,411
CONOCO	3,069,500	2,210,618	0	4,041	0	858,882	0
CORCO	0	1,059,278	99,181***	252,821	0	0	1,059,278
CRA-FARMLAND	303,747	511,254	0	0	0	0	207,507
CROSS	44,350	105,556	0	0	0	0	61,206
CROWN	905,732	627,446	0	0	0	278,286	0
CRYSTAL-OIL	173,789	171,393	0	0	0	2,396	0
CRYSTAL-REF	5,728	33,112	0	0	0	0	27,384
DELTA	238,330	305,498	0	0	0	0	67,168
DEMENNO	6,061	63,312	0	0	0	0	57,251
DERBY	0	273,138**	0	0.	0	0	273,138
DIAMOND	495,234	364,561	0	0	0	130,673	0
DILLMAN	0	2,123	0	0	0	0	2,123
DORCHESTER	-136,013	165,722	0	0	0	0	301,735
DOW	72,057	138,436	0	0	0	0	66,379
E-SEABOARD	0	52,874	0	52,874	0	0	52,874
ECO	106,374	85,360	0	0	0	21,014	0
EDDY	41,501	46,583	0	0	0	0	5,082
ENERGY-COOP	2,452	832,616	0	0	0	0	830,164
ERICKSON	11,091	277,632	0	0	0	0	266,541
EVANGELINE	27,669	39,567	0	0	0	0	11,898
EXXON	9,381,719	8,569,360	0	357,143	0	812,359	0
EZ-SERVE	10,485	37,161	0	0	0	0	26,676
FARMERS-UN	172,004	203,160	0	0	0	0	31,156
FLETCHER	24,277	163,511	0	0	0	0	139,234
FLINT	8,616	9,151	0	0	0	0	535
GARY	114,551	107,472	0	0	0	7,059	0
GETTY	816,971	614,363	0	0	0	202,608	0
GIANT	40,069	53,786	0	0	0	0	15,717
GLACIER-PARK	88,520	41,677	0	0	0	46,843	0
GLADIEUX	46,224	130,366	0	0	0	0	84,142
GLENROCK	550	1,350	0	0	0	0	800
GOLDEN-EAGLE	0	132,726	0	0	0	0	132,726
GOLDEN-EAGLE-NY	0	15,116	0	15,116	0	0	15,116

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
GOLDKING	86,555	123,750	0	0	0	0	37,195
GOOD-HOPE	52,400	279,419	0	0	0	0	227,019
GUAM	0	296,638	0	0	0	0	296,638
GULF	7,796,056	5,474,400	0	30,811	0	2,321,656	0
GULF-STS	15,671	132,335	0	0	0	0	116,664
HIRI	0	462,937	0	0	0	0	462,937
HOWARD	0	45,589	0	45,589	0	0	45,589
HOWELL	288,857	284,877	0	0	0	3,980	0
HUDSON-OIL	13,305	198,429	0	0	0	0	185,124
HUNT	334,649	284,828	0	0	0	49,821	0
HUSKY	625,034	625,034	292,845	0	0	0	0****
INDEPENDENT-REF	59,111	132,633	0	0	0	0	73,522
INDIANA-FARM	40,396	209,186	0	0	0	0	168,790
INDUST-FUEL	0	3,000	0	0	0	0	3,000
IRVING	0	20,337	0	20,337	0	0	20,337
J&W	65,767	54,863	0	0	0	10,904	0
KENCO	9,305	36,798	0	0	0	0	27,493
KENTUCKY	16,613	14,498	0	0	0	2,115	0
KERN	285,030	363,848	166,207	0	0	0	78,818
KERR-MCGEE	947,663	910,267	0	0	0	37,396	0
KOCH	287,232	786,491	0	0	0	0	499,259
LAGLORIA	451,976	265,544	0	0	0	186,432	0
LAKESIDE	40,613	42,469	0	0	0	0	1,856
LAKETON	40,134	53,819	17,850	0	0	0	13,685
LITTLE-AMER	1,096,760	1,043,436	574,132	0	0	53,324	0
LOUISIANA-LAND	207,727	296,996	0	0	0	0	89,269
MACMILLAN	40,708	150,516	0	0	0	0	109,808
MARATHON	3,301,434	3,155,621	0	0	0	145,613	0
MARION	73,000	188,003	0	0	0	0	115,003
METROPOLITAN	0	62,866	0	62,866	0	0	62,866
MID-AMER	59,947	30,724	0	0	0	29,223	0
MID-TEX	8,166	30,320	0	0	0	0	22,154
MOBIL	6,539,500	5,123,041	0	22,166	0	1,416,459	0
MOBILE-BAY	0	142,846	0	0	0	0	142,846

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	E N T I T L E M E N T P O S I T I O N EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
MOHAWK	372,394	402,638	157,223	0	0	0	30,244
MONOCO	0	12,025	0	12,025	0	0	12,025
MONSANTO	392,229	285,039	0	0	0	107,190	0
MORRISON	13,717	8,524	0	0	0	5,193	0
MOUNTAINEER	7,928	7,862	0	0	0	66	0
MT-AIRY	26,839	148,160	0	0	0	0	121,321
MURPHY	612,997	713,298	0	0	0	99,699	0
N-AMER-PETRO	29,006	147,292	-4,177	0	0	0	118,286
NATL-COOP	201,202	391,016	0	0	0	0	189,814
NAVAJO	309,674	343,161	62,699	0	0	0	33,487
NEVADA	13,693	30,509	0	0	0	0	16,816
NEW-EDGINGTON	491,759	537,598	177,759	0	0	0	45,839
NEW-ENGL-PETRO	0	293,942	0	293,942	0	0	293,942
NEWHALL	253,132	299,028	70,996	0	0	0	45,896
NORTHEAST-PETRO	0	38,081	0	38,081	0	0	38,081
NORTHLAND	41,055	41,055	16,198	0	0	0	0
NORTHVILLE	0	74,020	0	74,020	0	0	74,020
OKC	270,870	230,648	0	0	0	40,222	0
OXNARD	2,795	17,101	0	0	0	0	14,306
PEMEX	0	254,756**	0	0	0	0	254,756
PENNZOIL	411,214	337,314	0	0	0	73,900	0
PESTER	85,153	210,350	0	0	0	0	125,197
PETRO-HEAT-CT	0	3,506	0	3,506	0	0	3,506
PHILLIPS	2,145,943	1,829,740	0	0	0	316,203	0
PHILLIPS-PR	0	301,826	0	301,826	0	0	301,826
PIONEER	49,592	65,000	0	0	0	0	15,408
PLACID	244,027	249,558	0	0	0	0	5,531
PLATEAU	81,845	108,994	0	0	0	0	27,149
POWERINE	505,742	445,628	0	0	0	60,114	0
PR-OLEFINS	0	60,325	0	60,325	0	0	60,325
PRIDE	102,649	154,580	0	0	0	0	51,931
PRINCETON	6,994	67,563	0	0	0	0	60,569
QUAKER-ST	34,867	195,429	0	0	0	0	160,562
RANCHO-REF	0	12,041	0	0	0	0	12,041

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
RAYMAL	574	13,269	0	0	0	0	12,695
RICHARDS	258	64,851	0	0	0	0	64,593
RICO	0	19,483	0	19,483	0	0	19,483
ROAD-OIL	0	531	0	0	0	0	531
ROCK-ISLAND	248,399	294,905	-52,555	0	0	0	46,506
SABER-TEX	17,444	209,572	0	0	0	0	192,128
SABRE-CAL	-398	47,131	0	0	0	0	47,529
SAGE-CREEK	2,121	3,231	0	0	0	0	1,110
SAN-JOAQUIN	372,932	247,258	-13,336	0	0	125,674	0
SEMINOLE	12,823	59,695	0	0	0	0	46,872
SENTRY	-3,274	110,713	0	0	0	0	113,987
SHELL	8,744,163	6,239,532	0	0	0	2,504,631	0
SHEPHERD	79,450	75,959	0	0	0	3,491	0
SIGMOR	15,430	128,831	0	0	0	0	113,401
SO-HAMPTON	56,621	133,123	0	0	0	0	76,502
SOHIO	1,461,711	2,734,748	0	15,706	0	0	1,275,037
SOMERSET	17,179	47,462	0	0	0	0	30,283
SOUND	80,755	112,150	0	0	0	0	31,395
SOUTHERN-UNION	234,883	266,123	0	0	0	0	31,240
SOUTHLAND	386,683	302,662	118,888	0	0	84,021	0
SOUTHWESTERN	6,471	6,471	1,047	0	0	0	0
SPRAGUE	0	14,401	0	14,401	0	0	14,401
SUN-TRADING	0	18,337**	0	0	0	0	18,337
SUNLAND	20,385	139,245	0	0	0	0	118,860
SUNOCO	4,225,477	3,484,395	0	0	0	739,082	0
SWANN	0	29,123	0	29,123	0	0	29,123
TENNECO	876,966	710,104	0	0	0	166,862	0
TESORO	208,781	476,349	0	0	0	0	267,568
TEXACO	7,917,502	6,306,686	0	220,236	0	1,610,016	0
TEXAS-AMERICAN	26,564	96,709	0	0	0	0	70,145
TEXAS-ASPH	9,274	34,119	0	0	0	0	24,845*****
TEXAS-CITY	726,793	726,793	266,665	0	0	0	0
THAGARD	196,323	188,280	27,620	0	0	8,043	0
THRIFTWAY	33,862	50,087	0	0	0	0	16,225

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
THUNDERBIRD	69,330	40,149	0	0	0	29,181	0
TIPPERARY	8,229	82,001	0	0	0	0	73,772
TONKAWA	40,183	63,342	0	0	0	0	23,159
TOSCO	1,464,957	1,694,356	741,520	0	0	0	229,419
TOTAL-PETROLEUM	181,067	309,175	0	0	0	0	128,108
UCC-CARIBE	0	137,719	0	137,719	0	0	137,719
UNION-OIL	4,362,028	2,506,515	0	0	0	1,875,513	0
UNTD-IND	1,742	0	0	0	0	1,742	0
UNTD-REF	154,746	328,410	0	0	0	0	173,664
US-OIL	18,592	189,600	0	0	0	0	171,008
USA-PETROCHEM	12,504	207,925	0	0	0	0	195,421
VAL-VERDE	422	1,686	0	0	0	0	1,264
VICKERS	204,417	416,569	0	0	0	0	212,152
VULCAN	0	356,832	0	0	0	0	356,832
WALLER	0	5,911	0	5,911	0	0	5,911
WARRIOR	43,570	40,235	14,729	0	0	3,335	0
WEST-COAST	18,830	111,806	0	0	0	0	92,976
WESTERN	75,681	109,222	0	0	0	0	33,541
WINSTON	97,881	166,377	0	0	0	0	68,496
WIREBACK	0	831	0	0	0	0	831
WITCO	41,245	185,864	0	0	0	0	144,621
WYATT	0	14,064	0	14,064	0	0	14,064
WYOMING	22,212	141,199	0	0	0	0	118,987
YETTER	0	700	0	0	0	0	700
YOUNG	54,195	55,457	29,243	0	0	0	1,262
TOTAL	108,389,011	108,389,011	3,297,311	2,618,986	0	20,275,343	20,275,343

* Equals May 1978 entitlement purchase requirement of Arizona Fuels. See discussion in Notice.

** Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

*** Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

**** This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978).

***** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[3128-01]

Office of Hearings and Appeals

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of June 23 Through June 30, 1978

Notice is hereby given that during the seek of June 23, 1978 through June 30, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

JULY 12, 1978.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*

[Week of June 23 through June 30, 1978]

Date	Name and location of applicant	Case No.	Type of submission
June 23,1978	Berry Holding Co., Fresno, Calif	DRS-0069	Stay request. If granted: The June 10, 1978 remedial order issued to the Berry Holding Co. by DOE region IX would be stayed pending judicial review.
Do	Welles Texaco Service, East Hartford, Conn.	DEE-1373	Exception to the reporting requirements. If granted: Welles Texaco Service would not be required to file form EIA-8 (Retail Motor Fuels Service Station survey).
June 26, 1978	Earlsboro Oil & Gas Co., Inc., Oklahoma City, Okla.	DEE-1375	Price exception (sec. 212.73). If granted: Earlsboro Oil & Gas Co., Inc., would be permitted to sell the crude oil produced from the Schroeder-Post No. 1 well located in Kingfisher County, Okla., at upper tier ceiling prices.
Do	Getty Oil Co., Los Angeles, Calif	DEE-1377 through DEE-1381.	Price exception (sec. 212.73). If granted: Getty Oil Co. would be permitted to sell crude oil produced from the Carranza, Chamberlin, Davis, Luton, and Quati leases located in the Zaca Field, near Santa Maria, Calif., at upper tier ceiling prices.
Do	William L. Hartman, Cincinnati, Ohio	DEE-1389	Exception to the reporting requirements. If granted: William L. Hartman would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).
Do	Lou's Auto Service, Prospect, Conn	DEE-1383	Exception to the reporting requirements. If granted: Lou's Auto Service would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).
Do	Miller & Chevalier, Washington, D.C.	DFA-0196	Appeal of an information request denial. If granted: The DOE's May 16, 1978 information request denial would be rescinded and Miller & Chevalier would be granted access to data relating to interest costs as referred to in former 10 CFR 212.87 and in 10 CFR 212.83.
Do	Petroleum Management, Inc., Corpus Christi, Tex.	DRH-0015	Request for evidentiary hearing. If granted: Petroleum Management, Inc., would be granted an evidentiary hearing concerning its objections to the proposed remedial order which was issued to the firm on May 23, 1978.
Do	S & S Oil & Propane Co., Inc., Emporia, Kans.	DEE-1376	Exception to change suppliers. If granted: S & S Oil & Propane Co., Inc, would be assigned a new supplier of propane to replace its base period supplier, Getty Oil Co.
Do	Texaco, Inc., Houston, Tex	DEE-1384 through DEE-1388.	Price exception (sec. 212.165). If granted: Texaco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Camrick, Pegasus, Encinitas, Wilson Creek, and Fuller plants.
June 27, 1978	George C. McCoy, Marianna, Fla	DEE-1390	Exception to the reporting requirements. If granted: George C. McCoy would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).
Do	Texaco, Inc., Los Angeles, Calif	DEE-1391 through DEE-1393.	Price exception (sec. 212.73). If granted: Texaco, Inc., would be permitted to sell the crude oil produced from the Hamilton, Ripperdam, and Surfluh leases located in Fresno County, Calif., at upper tier ceiling prices.
June 29,1978	Britenriker & Norden, Stryker, Ohio	DEE-1396	Price exception (sec. 212.10). If granted: Britenriker & Norden would be granted an exception from the general provisions of sec. 212.10 would which permit the firm to increase the permissible markup on its sales of propane.
Do	George Dietrich, Chicago, Ill	DSG-0022, DES-0083.	Request for special redress. Stay request. If granted: The Office of Hearings and Appeals would review denial by DOE region V of George Dietrich's application to quash a subpena which was issued to the firm on May 8, 1978.
Do	Lamson/Onshore Petroleum Corp., Lafayette, La.	DEE-1395	Price exception (sec. 212.73). If granted: Lamson/Onshore Petroleum Corp. would be permitted to sell the crude oil produced from the Bayou Henry Field, located in Iberville Parish, La., at upper tier ceiling prices.
Do	Leonard E. Belcher, Inc., Springfield, Mass	DRA-0197	Appeal of remedial order. If granted: The May 12, 1978 revised remedial order would be rescinded and Leonard E. Belcher, Inc., would not be required to refund overcharges made in the sale of No. 2 heating oil.
June 29,1978	O. B. Mobaley, Inc., Shreveport, La	DES-1021	Stay request. If granted: O. B. Mobley, Jr., would receive a stay of the application to the firm's activities of the provisions of pt. 212, subpt. D, pending a final determination on its application for exception.
Do	Texaco, Inc., Denver, Colo	DEE-1394	Price exception (sec. 212.73). If granted: Texaco, Inc., would be permitted to sell the crude oil produced from the Government Graves lease located in Campbell County, Wyo., at upper tier ceiling prices.

Notices of objection received

Date	Name and location of applicant	Case No.
June 27, 1978	City of Long Beach, Calif., Long Beach, Calif	DEE-0891

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

[Week of June 23 through June 30, 1978]

Date	Name and location of applicant	Case No.
	Proposed remedial orders	
June 23, 1978	Central Cooperatives, Inc., Pleasant Hill, Mo	DRO-0069
June 26, 1978	R. H. Engelke, San Antonio, Tex	DRO-0070
June 27, 1978	McCaleb & Davis, San Antonio, Tex	DRO-0072
Do	Larco Drilling Co., Inc., Shreveport, La	DRO-0071
June 29, 1978	Lebsack Oil Production, Inc., Hayes, Kans	DRO-0073
Do	Arden A. Anderson, Pensacola, Fla	DRO-0074
Do	Howell Drilling, Inc., San Antonio, Tex	DRO-0075

[FR Doc. 78-20456 Filed 7-24-78; 8:45 am]

[3128-01]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of June 30 Through July 7, 1978

Notice is hereby given that during the week of June 30 through July 7, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 24561.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JULY 12, 1978.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*

[Week of June 30 through July 7, 1978]

Date	Name and location of applicant	Case No.	Type of submission
June 30, 1978	Charter Oil Co., Jacksonville, Fla	DXE-1398	Exception to the entitlements program. If granted: Charter Oil Co., would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Mid-Valley Petroleum Corp., Washington, D.C.	DRH-0016	Request for evidentiary hearing. If granted: Mid-Valley Petroleum would be granted an evidentiary hearing with respect to factual issues presented in the remedial order issued to Champlin Petroleum Co. (case No. DRA-0012).
Do	Sun Co., Inc. (Puerto Rico) Philadelphia, Pa.	DES-0392	Stay request. If granted: Sun Co., Inc. (Puerto Rico) would be granted a stay of any entitlement purchase obligations pending a decision on an application for exception which the firm has filed.
July 3, 1978	Champlin Petroleum Co., Fort Worth, Tex..	DRH-0018	Request for evidentiary hearing. If granted: Champlin Petroleum Co., would be granted an evidentiary hearing with respect to the factual issues presented in the remedial order issued to the firm (case No. DRA-0012).
Do	Gibbs Oil Co., Washington, D.C	DRH—0021	Request for evidentiary hearing. If granted: Gibbs Oil Co., would be granted an evidentiary hearing with respect to factual issues presented in the remedial order issued to Champlin Petroleum Co. (case No. DRA-0012).
Do	Marine Petroleum Co., et al. Washington, D.C.	DRH-0019	Request for evidentiary hearing. If granted: Marine Petroleum Co., et al. would be granted an evidentiary hearing with respect to factual issues presented in the remedial order issued to Champlin Petroleum Co. (case No. DRA-0012).
Do	Supreme Petroleum Co., of New Jersey, Inc., Washington, D.C.	DRH-0017	Request for evidentiary hearing. If granted: Supreme Petroleum Co., of New Jersey, Inc., would be granted an evidentiary hearing with respect to factual issues presented in the remedial order issued to Champlin Petroleum Co. (case No. DRA-0012).
Do	Western Crude Oil, Inc., Denver, Colo	DSG-0023 and DES-0084.	Special redress and stay request. If granted: The Office of Hearings and Appeals would review the DOE's denials of Western Crude Oil, Inc.'s applications to quash subpenas which were issued to the firm on Feb. 2, 1978 and Mar. 3, 1978.
July 5, 1978	Blanton Oil Co., Sullivan, Mo	DEE-1404	Exception to change supplier. If granted: Blanton Oil Co., would be assigned a new supplier of gasoline and fuel oil to replace its base period supplier, Wallis Oil Co.
Do	Halliburton Co./Vessels Gas, Denver, Colo.	DXE-1403	Price exception (sec. 212.165). If granted: Halliburton Co./Vessels Gas would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Irondale Gas Processing plant.
Do	Henry Petroleum Corp., Midland, Tex	DEE-1400	Price exception (sec. 212.73). If granted: Henry Petroleum Corp., would be permitted to sell the crude oil produced from the Epley property at upper tier ceiling prices.
Do	Point Landing Fuel Corp. & Point Landing, Inc., Washington, D.C.	DRH-0059	Request for evidentiary hearing. If granted: Point Landing Fuel Corp. & Point Landing, Inc., would be granted an evidentiary hearing with respect to the factual issues presented in Point Landing's statement of objections (case No. DRO-0029).
Do	.....do	DRD-0059	Motion for discovery. If granted: Point Landing Fuel Corp. & Point Landing, Inc., would be granted discovery with respect to the DOE's worksheets and records of transactions in which Point Landing overcharged its customers.

APPENDIX.—*List of cases received by the Office of Hearings and Appeals*—Continued

[Week of June 30 through July 7, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Robert E. Brain & Cooper & Brain, Inc., Wilmington, Calif.	DEE-1405	Price relief (sec. 212.73).If granted: Robert E. Brain & Cooper & Brain, Inc., would be permitted to sell crude oil produced from the Brea Canyon fee lease at market prices.
Do	Superior Oil Co., Houston, Tex	DEE-1401 and DEE-1402.	Price exception (sec. 212.73). If granted: Notwithstanding a cumulative deficiency which occurred at its Aneth Field operation in Utah during the month of April 1978, Superior would be permitted to sell a portion of the crude oil produced in that month at upper tier ceiling prices.
Do	Valley Oil Refining Corp., Houston, Tex	DEE-1399	Exception to entitlements program. If granted: Valley Oil Refining Corp. would be permitted to transship 15,000 b/d of California crude oil to Brownsville, Tex., to be refined at its plant beginning Jan. 1, 1979.
July 6, 1978	Energy Policy Task Force of the Consumer Federation of America, Washington, D.C.	DEX-0091	Supplemental order. If granted: References to the Consumer Federation of America in two prior decisions would be changed to Energy Policy Task Force of the Consumer Federation of America.
Do	Wesreco, Inc., Woods Crossing, Utah	DES-0085	Application for stay. If granted: The order issued to Wesreco, Inc., by the Economic Regulatory Administration (43 FR 8832) would by stayed on a temporary basis pending a final decision of Wesreco's appeal (Case No. DEA-0166).
July 7, 1978	....do	DST-001	Temporary stay. If granted: Wesreco. Inc., would receive a temporary stay pending a determination on an application for stay which the firm has filed.

Notices of Objection Received

Date	Name and location of applicant	Case No.
June 30, 1978	Young Refining Corp., Douglasville, Ga	DXE-1051
July 5, 1978	Kern County Refinery, Inc., Cerritos, Calif	DXE-1076

Proposed remedial orders

July 3, 1978	Texinia Corp., Oklahoma City, Okla	DRO-0076
July 5, 1978	Eagle Enterprises, Inc., Portland, Oreg	DRO-0077

[FR Doc. 78-20457 Filed 7-24-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G-5236, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE AND PETITIONS TO AMEND CERTIFICATES

Correction

JULY 13, 1978.

In FR Doc. 78-19764 appearing at page 31062 in the FEDERAL REGISTER of July 19, 1978, make the following change:

In the third entry in the table on page 31063, in the column headed "Applicant," change the address for Ladd Petroleum Corp. from "1730 M Street, NW., Washington, D.C. 20036" to read "830 Denver Club Building, Denver Colo. 80202" opposite Docket No. CI78-903 (CI72-194).

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20594 Filed 7-24-78; 8:45 am]

[6740-02]

[Docket No. CP76-500]

CITIES SERVICE GAS CO.

Order Granting Late-Filed Petition for Leave To Intervene

JULY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR—, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On June 12, 1978, the County of Jackson, Mo. (the County), a first class constitutional home rule county of the State of Missouri, filed pursuant to section 1.8 of the Commission's rules of practice and procedure an untimely petition for leave to intervene in the above-captioned proceeding.

In support of its petition to intervene, the County states that it is a political subdivision of the State of Missouri with a population in excess of 635,000 and that it is entering its appearance on behalf of itself as a natural gas user and on behalf of its citizens and businesses. The County further states that its entire natural gas supply is purchased at the wholesale level from Cities Service Gas Co. (Cities Service) and that as a result of its dependence on Cities Service for natural gas supplies, it is vitally interested in Cities Service's proposal to purchase, construct, and operate a natural gas pipeline which would extend from Rawlins, Wyo., to Hesston, Kans. The County's interests are allegedly represented by no other parties to the proceeding.

As to the lateness of its filing, the County states that its petition to intervene was not filed within the prescribed time limit because it was only recently advised of the Commission staff's opposition to the initial decision which approved the proposed project. The purpose of the filing is to express the County's support for the initial decision in this proceeding and to urge its adoption by the Commission.

Although we do not concur with the stated reason for the late filing of the instant petition to intervene, we find that the County has a real and substantial interest in the outcome of this proceeding and we will permit the late intervention. if the County takes the record as it now stands, its late intervention will not result in a delay in the proceeding.

The Commission finds: participation in this proceeding by the County of Jackson, Mo., may be in the public interest.

The Commission orders: (A) The County of Jackson, Mo., is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation by this intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *provided, further,* That the admission of this intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) The intervenor shall take the record as it now stands in this proceeding. The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious determination of this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20588 Filed 7-24-78; 8:45 am]

[6740-02]

[Docket No. E-9002]

COMMONWEALTH EDISION CO.

Extension of Time

JULY 18, 1978.

On July 12, 1978, the Cities of Batavia, Geneva, Naperville, St. Charles, and Rock Falls, ILL. (Illinois Cities) filed a motion to extend the time for filing its Brief Opposing Exceptions to the Initial Decision, issued by the Presiding Administrative Law Judge on May 22, 1978, in the captioned proceeding. The motion states that Commission Staff offered no objections to the requested extension, but Commonwealth Edison Co. would only agree to a 14-day extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including July 31, 1978, for filing Briefs Opposing Exceptions to the Initial Decision in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20589 Filed 7-24-78; 8:45 am]

[6740-02]

[Docket No. CI77-209]

CURTIS HANKAMER

Findings and Order After Statutory Hearing Permitting and Approving Abandonment of Service

JULY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provides that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On January 3, 1977, Curtis Hankamer (Applicant) filed an application in Docket No. CI77-209 [1] to abandon a sale of gas to CRA, Inc. (CRA) from the Elta Murphey No. 2 well, Mertzon (Sixty-seven Canyon) Field, Irion County, Tex., made under a percentage-type contract dated May 5, 1972. CRA processes the gas and sells it to Northern Natural Gas Co. (Northern). The gas from the subject well is no longer able to enter CRA's line because of the low wellhead pressure. Both Applicant and CRA have indicated that it will be uneconomical to in-

[1] Additional information filed February 21, 1978.

stall compression facilities in view of the small amount of remaining reserves. Applicant proposes to sell the remaining gas to an intrastate pipeline upon approval of his abandonment application.

Applicant has advised that CRA's line pressure is 650 lbs. and that his well pressure is 540 lbs. He estimates remaining reserves to be less than 35,000 Mcf. He also estimates the cost of compression facilities would be in excess of $30,000 which he does not consider economical for these reserves. Both CRA and Northern estimate the recoverable reserves to be approximately 21,000 Mcf. CRA estimates the cost of installing compression facilities would be approximately $50,000. Northern estimates the cost of compression facilities would be in excess of $25,000.

The May 5, 1972, contract provides that neither party is required to compress the gas although either may do so at its option. CRA has indicated that it considers compression uneconomical and that it does not intend to install the necessary compression facilities. CRA has also indicated that since it considers compression uneconomical the contract price is not subject to negotiation to cover the installation of a compressor.

On December 16, 1977, Applicant filed a petition for special relief for sales from the subject well based on 21,000 Mcf of recoverable reserves and an estimated cost to install compression facilities of $50,000 requesting a rate of $7.65279 per Mcf. Staff informally advised Applicant that based on his petition for special relief he would only be entitled to a rate of approximately $2.25 per Mcf. Applicant has advised that he attempted to obtain financing from the Bank of the Southwest based on the $2.25 per Mcf rate and was advised by the bank that a $50,000 loan could not be supported based on such rate and estimated remaining reserves of 19,130 Mcf. On February 21, 1978, Applicant filed a withdrawal of his petition for special relief stating that since the bank will not finance the installation of a compressor based on the $2.25 per Mcf rate and since CRA has concluded that it will not renegotiate its contract price to cover the installation of the compressor, Applicant's only realistic alternative is to seek abandonment authorization.

Applicant proposes to sell the remaining reserves to a low pressure intrastate pipeline at a price of $1.75 per Mcf.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests have been filed.

At a hearing held on July 12, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sale of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the application, is subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(3) The abandonment proposed by applicant herein is permitted by the public convenience and necessity and should be approved as hereinafter ordered.

The Commission orders: (A) Permission for and approval of the abandonment of service by Applicant, in Docket No. CI77-209 as hereinbefore described and as more fully described in the application, are granted.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20590 Filed 7-24-78; 8:45 am]

[6740-02]

[Docket Nos. G-4282, et al.]

GULF OIL CORP., ET AL.

Applications for certificates, Abandonment of Service and Petitions to Amend Certificates [1]

JULY 18, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-4282, D, June 19, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Boonesville, Cap Yates, and Jack County Regular Fields, Jack and Wise Counties, Tex.	Leases expired and wells plugged and abandoned	
G-5236, C, June 26, 1978	Cabot Corp. (GLC), (successor to Godfrey L. Cabot, Inc.), P.O. Box 1473, Charleston, W. Va. 25325.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(1)	14.65
G-7670, C, June 29, 1978	Southern Union Gathering Co., 1800 First International Bldg., Dallas, Tex. 75270.	El Paso Natural Gas Co., AXI Apache D No. 4 well, SE/4, sec. 19-T24N-R4W and AXI Apache D No. 5 well, NW/4 sec. 19-T24N-R4W, both from the Ballard Pictured Cliffs Formation in Rio Arriba County, N. Mex.	(2)	14.65

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G-11613, D, June 22, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Texas Eastern Transmission, Corp., A. Coutret, Jr. et al. lease, Meyersville Field Area, Goliad County, Tex.	(3)	
G-14366, D, July 7, 1978	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Various fields, Duval Field, Webb and La-Salle Counties, Tex.	No production from acreage since August 1976 and wells plugged and abandoned.	
CI67-285, D, July 10, 1978	Gulf Oil Corp	Transwestern Pipeline Co., certain acreage in the Mendota, Northwest Field, Hemphill County, Tex.	Leases have been canceled or assigned to other parties.	
CI72-440, C, June 26, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Ambush and Jamboree Fields, Adams County, Colo.	(4)	15.025
CI75-346, C, June 21, 1978	Continental Oil Co	Mountain Fuel Supply Co., Patterson 17 No. 1 well, north half of sec. 17-T38N-R74W, Converse County, Wyo.	(5)	15.025
CI75-367, C, July 3, 1978	Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.	El Paso Natural Gas Co., South Carlsbad Field, Eddy County, N. Mex.	(4)	14.73
CI76-425, C, July 3, 1978	Chevron U.S.A. Inc., 1111 Tulane Ave., New Orleans, La. 70112.	Trunkline Gas Co., "B" platform in block 281, East Cameron area, south addition, offshore Louisiana.	(6)	15.025
CI77-53, C, July 3, 1978	Chevron U.S.A. Inc	do	(6)	15.025
CI77-401, C, July 3, 1978	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Union of California, State lease 5706 No. 5 well located in the Myette Point Field, St. Mary Parish, La.	(4)	15.025
CI77-483, F, June 16, 1978	CIG Exploration, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co., certain acreage in the Natural Buttes Unit, Unitah County, Utah.	(4 7)	15.025
CI77-685, C, June 1, 1978	Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.	Montana Dakota Utilities Co., Second Creek and North Fork Fields, Richland County, Mont.	(4)	14.73
CI77-781, C, July 6, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., E/2 of the SE/4 of sec. 20-T22S-R36E, Lea County, N. Mex.	(8)	14.73
CI78-66, C, July 10, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, certain acreage in High Island, offshore Texas.	(4)	14.73
CI78-67, C, July 10, 1978	Exxon Corp	Columbia Gas Transmission Corp., certain acreage in High Island, offshore Texas.	(4)	14.73
CI78-68, C, July 10, 1978	do	Trunkline Gas Co., certain acreage in High Island, offshore Texas.	(4)	14.73
CI78-292, C, July 3, 1978	Dorchester Exploration, Inc., 1100 Midland National Bank Tower, Midland, Tex. 79701.	Northern Natural Gas Co., Schoenhals No. 1 well, and C. L. Unit No. 1 well Horsecreek, Northwest (Morrow Lo) Field, section 236, block 43, H&TC RR. Co. survey, Lipscomb County, Tex.	(4)	14.73
CI78-330, C, June 27, 1978	Northwest Exploration Co., 315 East 2d South, Salt Lake City, Utah 84111.	Northwest Pipeline Corp., Great Divide Prospect (undesignated field, Moffat County, Colo.).	(4)	15.025
CI78-697, C, June 23, 1978	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	El Paso Natural Gas Co., Ogden "8" Com. No. 1 well (Morrow Formation) and Woods "9" Com. No. 1 well (Morrow Formation) East 1/2 of sec. 8 and sec. 9-T24S-R28E, Malaga West Morrow Field, Eddy County, N. Mex.	(4)	14.73
CI78-887, A, June 27, 1978	Northwest Exploration Co	Northwest Pipeline Corp., Middle Mesa Prospect (undesignated field), San Juan County, N. Mex.	(4)	15.025
CI78-890, D, June 23, 1978	Claud B. Hamill, 2306 First City National Bank Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Spanish Camp Field, Wharton County, Tex.	Nonproductive, leases reverted to lessors.	
CI78-898, B, June 23, 1978	Claud B. Hamill	Tennessee Gas Pipeline Co., Nada Field, Colorado County, Tex.	Reserves depleted, several wells were dry holes and other wells nonproductive.	
CI78-909, A, June 28, 1978	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	El Paso Natural Gas Co., Morrow Formation of the Little Box Canyon Unit No. 1 and Box Canyon Unit No. 2, Little Box Canyon Area, Eddy County, N. Mex.	(4)	14.65
CI78-910, A, June 27, 1978	Aminoil U.S.A., Inc., Golden Center One, 2800 North Loop West, Houston, Tex. 77018.	United Gas Pipe Line Co., certain acreage in Odem Field, San Patricio County, Tex.	(4)	14.65
CI78-911, A, June 16, 1978	Champlin Petroleum Co., 700 Houston Natural Gas Bldg., Houston, Tex. 77002.	EL Paso Natural Gas Co., Baumgartner Federal Com. No. 1 well, East Carlsbad Field, Eddy County, N. Mex.	(9)	14.73
CI78-912 (CI67-353), B, June 21, 1978.	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Florida Gas Transmission Co., South Manchester Field, Calcasieu Parish, La.	(10)	
CI78-913, A, June 21, 1978	Bass Enterprises Production Co., agent for Bass Partnership, Forth Worth National Bank Bldg., Forth Worth, Tex. 76102.	Mississippi River Transmission Corp., Middlefork Field, Lincoln Parish, La.	(4)	15.025
CI78-914 (CI72-507), B, June 23, 1978.	Petroleum Inc. (operator) et al., 800 R. H. Garvey Bldg., 300 West Douglas, Wichita, Kans. 67202.	Tennessee Gas Pipeline Co., Vacek and Krotky Gas Unit Wells, J. F. Stephenson League, East Barnard Field, Wharton County, Tex.	Depleted.	
CI78-915, B, June 26, 1978	Petro Grande, Inc., 4219 Sigma Rd., Dallas, Tex. 75240.	Natural Gas Pipeline Co. of America, Steve (Smackover) Field, Bowie County, Tex.	Well reached economic depletion and was plugged and abandoned. Leases expired pursuant to their terms.	
CI78-916, A, June 26, 1978	Amerada Hess Corp., 1200 Milam, 6th floor, Houston, Tex. 77002.	United Gas Pipe Line Co., blocks 37, 38, 57, and 58, Eugene Island Area, offshore Lousiana.	(11)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-917, B, June 26, 1978.....	W. C. McBride-Silurian Oil Co., operator (formerly W. C. MCBride, Inc.), 820 Utica Tower Bldg., 1924 South Utica, Tulsa, Okla. 74104.	Panhandle Eastern Pipe Line Co., Northwest Eva Field, Texas County, Okla.	Operations are not profitable.	
CI78-918, B, June 26, 1978.....	Stoltz, Wagner & Brown, 1220 Midland National Bank Tower, Midland, Tex. 79702.	El Paso Natural Gas Co., Bagley Field, Lea County, N. Mex.	Cisco formation is depleted.	
CI78-919 (CI61-159), B, June 26, 1978.	Maguire Oil Co., 4200 First National Bank Bldg., Dallas, Tex. 75202.	Natural Gas Pipeline Co. of America Gladys-Mag (Bend Conglomerate), Jack County, Tex.	Depleted.	
CI78-920, A, June 26, 1978.....	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage in block 222, West Cameron area, offshore Lousiana.	(12)	15.025
CI78-921 (G-4697), B, June 26, 1978.	Murphy Oil Corp. et al., 200 Jefferson Ave., El Dorado, Ark. 71730.	Texas Eastern Transmission Co., certain gas wells in the Delhi area of Franklin, Madison, and Richland Parishes, La.	(13)	.....
CI78-922 (CI65-483), B, June 26, 1978.	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	The Nueces Co., Belding Field, Pecos County, Tex.	Ceased production, plugged, and abandoned, and leases released. Certain other leases assigned to Texas Oil Gas Corp., effective Oct. 1, 1968.	
CI78-923, A, June 26, 1978.....	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Tennessee Gas Pipeline Co., Ship Shoal block 167, Gulf of Mexico.	(4)	15.025
CI78-924, A, June 23, 1978.....	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Northwest Pipeline Corp., certain acreage in LaPlata County, Colo., and San Juan County, N. Mex., limited to Mesaverde and Dakota Formations.	(4)	14.73
CI78-925, A, June 27, 1978.....	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Inc., Loring Unit No. 0560, Bowdoin Field, Phillips County, Mont., limited to Bowdoin and Phillips Formations.	(4)	15.025
CI78-926, A, June 27, 1978.....	Anadarko Production Co.....	Panhandle Eastern Pipe Line Co., Ratcliff "A" No. 1 and Cox "A" No. 2 wells, Council Grove Field, Stevens County, Kans., limited to the Council Grove Group of the Permian system, and the E. P. Lewis "B" No. 1 well, Taloga Field, Morton County, Kans., limited to the Cherokee Group of the Pennsylvanian System.	(4)	14.65
CI78-927 (CI66-995), B, June 27, 1978.	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Checkerboard Field, Hemphill County, Tex.	Ceased production, plugged and abandoned, and Nov. 18, 1965, contract had terminated.	
CI78-928, A, June 27, 1978.....	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	El Paso Natural Gas Co., McMillan Com "B" No. 1 well, sec. 14-T20S-R27E, Eddy County, N. Mex., limited to Morrow Formation.	(4)	14.73
CI78-929, B, June 27, 1978.....	Sklar & Phillips Oil Co. (operator), et al., 2925 Mansfield Rd., Shreveport, La. 71103.	Tennessee Gas Pipeline Co., L. O. Miller No. 1 well, Deep Lake Field, Cameron Parish, La.	(14)	.....
CI78-930, B, June 27, 1978.....	Sklar & Phillips Oil Co. et al.....	Mississippi River Transmission Corp., Merrywoods Unit No. 1 well, Haughton Field, Bossier Parish, La.	Ceased production Jan. 30, 1978, reservoir depleted. No further plans for development; plugged and abandoned May 1, 1978.	
CI78-931, A, June 27, 1978.....	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Ford Gas Unit D well No. 1, Ignacio Field, La Plata County, Colo.	(15)	15.025
CI78-932, A, June 27, 1978.....	Ocean Production Co., P.O. Box 61780, New Orleans, La. 70161.	Transcontinental Gas Pipe Line Corp., Vermilion Area block 102, in the Gulf of Mexico, offshore Louisiana.	(4)	15.025
CI78-933, A, June 28, 1978.....	Aminoil U.S.A., Inc., Golden Center One, 2800 North Loop West, Houston, Tex. 77018.	El Paso Natural Gas Co., certain acreage in Eddy County, N. Mex.	(4)	14.73
CI78-940, A, June 28, 1978.....	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., certain acreage in Beckham County, Okla.	(16 17)	14.65
CI78-941 (CI72-311), B, June 29, 1978.	CSG Exploration Co. (successor in interest to Mobil Oil Corp.) P.O. Box 25128, Oklahoma City, Okla. 73125.	Arkansas Louisiana Gas Co., Waveland and Sugar Grove Fields, Yell and Logan Counties, Ark.	(18)	.....
CI78-942 (CI68-1320), B, June 27, 1978.	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., Southwest Lake Arthur Field, Cameron and Vermilion Parishes, La.	(19)	.....
CI78-943, A, June 29, 1978.....	Quintana Offshore, Inc., P.O. Box 3331, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., High Island Area blocks A-330 and A-349 and West Cameron Area block 621, Gulf of Mexico.	(4)	15.025
CI78-944, A, June 30, 1978.....	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	United Gas Pipe Line Co., Urbana Field, San Jacinto County, Tex.	(20)	14.65
CI78-945, A, June 30, 1978.....	Amerada Hess Corp., 1200 Milam, 6th floor, Houston, Tex. 77002.	Northern Natural Gas Co., Vermilion block 331, offshore Louisiana.	(21)	15.025
CI78-946, A, June 30, 1978.....	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Northwest Pipeline Corp., certain acreage in Yellow Creek Field, Uinta County, Wyo.	(4)	15.025
CI78-947, A, June 30, 1978.....	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	Southern Natural Gas Co., Loisel Field, Iberia Parish, La., Planulina 3 Reservoir A SUA.	(4)	14.73
CI78-948 (CI63-813), B, June 30, 1978.	Gas Producing Enterprises, Inc. (formerly Colorado Oil & Gas Corp.), 5 Greenway Plaza East, Houston, Tex. 77046.	Texas Gas Transmission Corp., North Hayes Field, Calcasieu Parish, La.	Reservoir depleted. Ceased production July 3, 1972. Plugged and abandoned Nov. 29, 1972 and all leases expired by their own terms and released to mineral owners.	
CI78-949, A, June 29, 1978.....	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Chester Formation from the State 1-2 well located in sec. 2-T26N-R18W, Woods County, Okla.	(4)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-950, A, June 29, 1978.....	Quintana Oil & Gas Corp., P.O. Box 3331, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., High Island Area blocks A-330 and A-349 and West Cameron Area block 621, Gulf of Mexico.	(1)	15.025
CI78-951, A, June 29, 1978.....	Southland Royalty Co.....	Panhandle Eastern Pipe Line Co., Chester Formation from the Hagler No. 1-4 well located in sec. 4-T25N-R15W and the Monneyham No. 1-5 well located in sec. 5-T25N-R15W, both in Woods County, Okla.	(4)	14.73
CI78-952 (CI69-71), B, June 30, 1978.	H. H. Champlin, Douglas L. Champlin, and Joanna C. Nave (formerly Thomas), P.O. Drawer 3488, 700 First National Bank Bldg., Enid, Okla. 73701.	Panhandle Eastern Pipe Line Co., North Hopeton (Hunton) Woods County, Okla.	Well went to water, plugged, and abandoned July 1, 1971 and leases released.	
CI79-953, B, July 3, 1978.....	David C. Bintliff (operator) et al., 1309 Bank of the Southwest Bldg., Houston, Tex. 77002.	Texas Gas Transmission Corp., Bayou Boeuf Field, Lafourche Parish, La.	(22 23)	.....
CI78-954, B, July 3, 1978.....	Yucca Petroleum Co., P.O. Box 2585, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., Massoni Field, Seward County, Kans.	Producing zone (Lansing formation) depleted.	
CI78-955, A, July 5, 1978.....	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Swope No. 1-6, sec 6-T13N-R25N, Reydon Field, Roger Mills County, Okla.	(5)	14.65
CI78-956 (G-7551), B, June 14, 1978.	Jones-O'Brien, Inc., 631 Commercial National Bank Bldg., Shreveport, La. 71101.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Bethany Field, Panola County, Tex.	Werner Pace Unit No. 1 no longer capable of production in commercial quantities—depleted.	
CI78-957, A, July 3, 1978.....	Panhandle Western Gas Co., P.O. Box 1348, Kansas City, Mo. 64141.	Panhandle Eastern Pipe Line Co., certain acreage in Sweetwater County, Wyo.	(4 17)	14.65
CI78-958, A, July 3, 1978.....	Panhandle Western Gas Co.....	.....do.....	(4 17)	14.65
CI78-959, A, July 3, 1978.....	.....do.....	.....do.....	(4 17)	14.65
CI78-960 (CI63-40), B, July 5, 1978.	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Arkansas-Louisiana Gas Co., Beaver, Northwest Field, Grady County, Okla.	(24)	.....

[1] Applicant is adding four (4) oil and gas leases under that certain exchange agreement dated Oct. 1, 1971, amended by amendment dated June 15, 1978, referred to as the "Multi-well Exchange"; and adding an additional delivery point.

[2] Applicant is filing under gas purchase agreement dated Sept. 1, 1953, amended by amendments dated Oct. 11, 1954, May 1, 1975, and Mar. 21, 1978.

[3] Continental Oil Co. farmed out its interest to Mr. Jay Smith in November of 1966. Workover operations were unsuccessful and the well was plugged and abandoned. Continental declined return of the lease, and it was allowed to terminate shortly thereafter by expiration of its primary term without further production.

[4] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

[5] Applicant is filing under gas sale contract dated Oct. 8, 1974, amended by amendments dated Sept. 26, 1975 and Jan. 10, 1977.

[6] Applicant requests authorization for an additional delivery point under gas purchase contracts dated Mar. 4, 1976 and July 30, 1976, amended by amendment dated May 12, 1978.

[7] Gas Producing Enterprises, Inc., has assigned to Applicant acreage from an additional six (6) sections in the Natural Buttes Unit effective Apr. 10, 1978.

[8] Applicant is filing under gas purchase agreement dated July 25, 1977, amended by amendment dated May 31, 1978.

[9] Applicant is filing under gas purchase agreement dated Mar. 15, 1978.

[10] All of the producing wells and most of the acreage was assigned to King Resources Co. on June 10, 1969. Subsequently Ladd Petroleum Co. filed with the Commission to continue service. Service was never initiated from the remaining nonproductive acreage. Leases expired by their own terms and the remaining acreage has reverted to the mineral owners.

[11] Applicant is filing under gas purchase agreement dated May 16, 1978.

[12] Applicant is filing under gas purchase contract dated Apr. 28, 1978.

[13] Reserves depleted by early 1973, and by Aug. 6, 1973, all wells had been plugged and abandoned. The Apr. 15, 1948, contract was terminated and since Aug. 6, 1973, all leases expired and terminated by their own terms and provisions.

[14] Ceased production Jan. 9, 1978, and reservoir depleted. No further plans for development; well will be plugged and abandoned as soon as barge-rig service can be obtained.

[15] Applicant is filing under gas sales contract dated May 26, 1978.

[16] Applicant is filing under gas purchase contract dated Mar. 16, 1978.

[17] Applicant and Purchaser are affiliated.

[18] CSGE attempted extensive reconditioning work in the hope that additional gas could be recovered from the wells which were assigned to it. All five (5) wells have been plugged and abandoned due to depletion.

[19] Depletion of reservoir, the Macdonell Estate No. 1 well ceased to produce and has been plugged and abandoned. The dedicated leases expired by their own terms and released to mineral owners. No gas has been sold since 1969.

[20] Applicant is filing under gas purchase contract dated June 22, 1978.

[21] Applicant is filing under gas purchase contract dated May 25, 1978.

[22] Last delivery of gas was on Mar. 16, 1977, due to insufficient well head pressure. The Bowie Lumber Co. No. 3 well, the only well remaining on the lease was reclassified as an oil well by the State of Louisiana Department of Conservation on July 5, 1977. Oil production became uneconomical in January 1978 and was plugged and abandoned on Feb. 8, 1978 and lease expired.

[23] Michel T. Halbouty (owner of 50 pct working interest) is authorized under rate schedule No. 13, Docket No. CI72-606)

[24] Depletion of reservoir, Thompson No. 1 well ceased production and has been plugged and abandoned. Leases expired by their own terms and Applicant's interest has reverted back to the mineral owners. Contract for the sale of the gas expired on Feb. 26, 1978. No gas has been sold since 1969.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc 78-20412 Filed 7-24-78; 8:45 am]

[6740-02]

[Docket No. CP76-426]

KENTUCKY WEST VIRGINIA GAS CO.

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

JULY 18, 1978.

On July 6, 1976, Kentucky-West Virginia Gas Co. (applicant) [1] filed with the FPC [2] in Docket No. CP76-426 an application pursuant to section 7(c) of the Natural Gas Act and in compliance with the order of the FPC dated May 28, 1976, in Docket No. RP76-93 (55 FPC ———) for a certificate of public convenience and necessity authorizing Applicant to continue the sale of natural gas to distribution systems owned by (1) Ohio-Kentucky Utilities, Inc., serving the towns of Allen and Dwale and vicinities in Floyd County, Ky.; (2) Ohio-Kentucky Utilities, Inc., serving the right fork of Middle Creek in Floyd County, Ky.; [3] (3) Mountain Utilities, Inc., serving the town of Staffordsville and vicinity in Johnson County, Ky.; and (4) Equitable Gas Co., serving customers along applicant's pipeline right-of-way in eastern Kentucky, all as more fully set forth in the application.

By order issued May 28, 1976, in Docket No. RP76-93, the Commission asserted jurisdiction over applicant's city gate service to various distribution customers located in Kentucky including the distribution systems named above. The order further provided as to city gate sales not specifically authorized by existing certificates that applicant file within 90 days of the issuance of the order, applications for certificate authority to continue those sales. The instant applications constitutes satisfactory compliance with that order.

Applicant states that its grandfather certificate application in Docket No. G-272 stated that applicant was selling gas at retail to scattered customers along its pipeline right-of-way in eastern Kentucky. This is the domestic retail service now rendered by Equitable Gas Co. under the service agreement dated August 15, 1958, which service was transferred to Equitable. Applicant further states that it has supplied Equitable with all of its requirements for resale since that date.

This authorization will not require any change in applicant's facilities or the facilities of the distribution systems here mentioned, nor will any new construction be required. Since the service is in interstate commerce subject to the jurisdiction of the Commission, it is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

After due notice by publication in the FEDERAL REGISTER on August 4, 1976 (41 FR 32664), a timely notice of intervention was filed by the Public Service Commission of Kentucky (PSC) requesting the Commission to defer action on the subject proposal pending the determination of the issues raised by PSC in Docket No. RP76-93. By letter dated May 8, 1978, PSC states that it has no objection to the issuance of the certificate here requested. No further petitions to intervene, notices of intervention, or protest to the granting of the application have been filed.

At a hearing held on July 12, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record.

The Commission finds:

(1) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(2) The continued sale of natural gas by applicant to the above named distributors for resale is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Upon the terms and conditions of this order a certificate of public convenience and necessity is issued to applicant authorizing the continued sale of natural gas as hereinbefore described and as set forth in the application in this proceeding.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set

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[1] On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46267 (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulations adopted on Oct. 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

[2] Applicant, Kentucky-West Virginia Gas Co., a West Virginia corporation, having its principal place of business in Ashland, Ky., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of Jan. 4, 1944, in Docket No. G-272 (4 FPC 476).

[3] Applicant states that is does not know whether the service to the Prestonsburg Gas Co. at Middle Creek which was mentioned in Exhibit B to applicant's grandfather application in Docket No. G-272 is the same service for the right fork of Middle Creek now operated by Ohio-Kentucky Utilities, Inc. Therefore, applicant requests certificate authorization for the service now rendered to Ohio-Kentucky Utilities, Inc.

forth in paragraphs (a) and (e) of section 157.20 and in Part 154 of such regulations.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20591 Filed 7-24-78; 8:45 am]

[6740-02]

MICHIGAN WISCONSIN PIPE LINE CO.

[Docket No. CP78-341]

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity

JULY 18, 1978.

On May 22, 1978, Michigan-Wisconsin Pipe Line Co. (applicant) [1] filed in Docket No. CP78-341 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing July 13, 1978, and operation of certain facilities to take natural gas which will be purchased from producers or other similar sellers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this budget-type authorization is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system and to the systems of other natural gas companies authorized to transport for or exchange with applicant supplies of natural gas in areas generally coextensive with such systems.

The total cost of said facilities will not exceed $12 million, with no single onshore project to exceed $1,500,000, and no single offshore project to exceed $2,500,000. These facilities will be financed with cash on hand.

Since the proposed facilities will be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation thereof by applicant are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

After due notice by publication in the FEDERAL REGISTER on June 7, 1978 (43 FR 24733), no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on July 12, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record.

The Commission finds:

(1) The proposed expenditures are within the limits prescribed by section 157.7(b) of the regulations under the Natural Gas Act.

(2) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(3) The construction and operation of the proposed facilities by applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing applicant to construct, during the 12-month period commencing July 13, 1978, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers or other similar sellers who have received authorization from the Commission to sell natural gas to the gas purchaser and to permit the delivery of natural gas to implement authorized exchange and/or transportation arrangements with other pipeline companies.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraph (b) of section 157.7 and in paragraphs (a), (e), and (f) of section 157.20 of such regulations.

(C) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with section 157.7(b)(3) of the Commission's regulations under the Natural Gas Act.

(D) The total expenditures for facilities to be constructed under the authorization granted by paragraph (A) above are limited to $12 million, with no single offshore project to exceed $2,500,000 and no single onshore project to exceed a cost of $1,500,000.

(E) The grant of the certificate herein is conditioned upon applicant's certifying to the Commission, within 60 days after all construction is completed under the instant authorization, that it has fully complied with the provisions of section 2.69 of the Commission's general policy and interpretations.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20592 File 7-24-78; 8:45 am]

[1] Applicant, Michigan-Wisconsin Pipe Line Co., a Delaware corporation having its principal place of business in Detroit, Mich., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by order of Nov. 30, 1946, in Docket No. G-669 (5 FPC 953).

[6740-02]

[Docket No. ER78-464]

POTOMAC ELECTRIC POWER CO.

Proposed Change in Delivery Points

Correction

JULY 12, 1978.

In FR Doc. 78-19311 appearing at page 30110 in the FEDERAL REGISTER of July 13, 1978, make the following change:

On page 30110, in the first column, first paragraph, second line, change "January" to "June."

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-20593 Filed 7-24-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 931-6; PP 7G1955 & 7G1959/T159]

ALDICARB

Renewal of a Temporary Tolerance

On August 1, 1977, the Environmental Protection Agency (EPA) announced (42 FR 38931) the establishment of a temporary tolerance for combined residues of the pesticide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl) oxime and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde *O*-(methylcarbamoyl)oxime in or on the raw agricultural commodity hops at 50 parts per million (ppm). This tolerance was established in response to pesticide petitions (PP 7G1955 & 7G1959) submitted by the Agricultural Research Center, Washington State University, Pullman, WA 99164, and the Agricultural Experiment Station, University of Idaho, Moscow, Idaho 83843. This temporary tolerance expired July 1, 1978.

Washington State University and the University of Idaho requested a 1-year renewal of the temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Washington State University and the University of Idaho must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firms must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires June 20, 1979. Residues not in excess of 50 ppm remaining in or on hops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Branch, Registration Division (WH-567), office of Pesticide programs, room 315, East Tower, 401 M Street SW, Washington, D.C. 20460, 202-755-4851.

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: July 18, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-20558 Filed 7-24-78; 8:45 am]

[6560-01]

[918-3]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter "the Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce its limitations on allowable maintenance for 1980 and subsequent model year gasoline-powered passenger cars and for 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles.[2]

Under section 209(b)(1) of the act, when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to standards for which a waiver has already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the California standards and accompanying enforcement procedures are not consistent with section 202(a) of the act. With regard to the first finding, if the public record of the proceedings before me contain plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[3] With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures impose inconsistent certification requirements.

I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to California's limitations on allowable maintenance for aforementioned vehicle classes.

II. BACKGROUND

On May 26, 1977, the California Air Resources Board (CARB) adopted provisions limiting the scheduled maintenance, to be performed during certification, on the engine, emission control system and fuel system of durability vehicles.[4] It also adopted provisions requiring approval by the Executive Officer of in-use maintenance instructions. Manufacturers cannot recommend any emissions control related maintenance other than that performed during certification.[5] Exceptions, also subject to CARB approval, were provided for maintenance to vehicles operated under extreme conditions and for inspections necessary to assure safe operations of the vehicle in use.[6] Compliance with the certification and the maintenance instruction limitations is a prerequisite to certification. Accordingly, all of the allowable maintenance regulations are accompanying enforcement procedures subject to review under the criteria set forth in the introduction.

On June 9, 1977, California requested a waiver of Federal preemption for all of the foregoing limitations on allowable maintenance.[7] Pursuant to a notice published in the FEDERAL REGISTER, a public hearing was held in San Francisco, Calif. on August 3-4, 1977.[8]

The Clean Air Act Amendments of 1977 were enacted on August 7, 1977.[9] EPA held a public hearing on October 13, 1977, to consider the effect of the amendments on this and all other pending waiver requests.[10]

III. DISCUSSION

Public Health and Welfare. Certification procedures like the California limitations on allowable maintenance are "accompanying enforcement procedures" under section 209(b)(1) of the act.[11] The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

California's 1980 and subsequent model year passenger car and 1981 and subsequent model year light duty truck and medium duty vehicle exhaust emission standards have received waivers of Federal preemption.[12] The public record does not contain plausible evidence that the restrictions on allowable maintenance cause the California standards to be less protective, in the aggregate, than the applicable Federal standards.

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[1] 42 U.S.C. § 7543(b) (1977).

[2] Paragraphs 3e, 3f, 3g and 3h, "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," incorporated by reference in Title 13, Cal. Admin. Code § 1960(b), as amended September 30, 1977 [hereinafter "1980 Test Procedures ¶ ——"]; 13 Cal. Admin. Code § 1960(c) (May 26, 1977).

[3] 43 FR 9344, 9345, 9346 (Mar. 7, 1978).

[4] See 1980 Test Procedures ¶ 3f.

[5] 1980 Test Procedures ¶ 3e, 3g and 3h; 13 Cal. Admin. Code § 1960(c) (May 26, 1977).

[6] 1980 Test Procedures ¶ 3g(1).

[7] Letter from Mr. William H. Lewis, Jr., executive officer, California Air Resources Board (CARB), to Douglas Costle, Administrator, Environmental Protection Agency (EPA), (June 9, 1977).

[8] 42 FR 36009 (July 13, 1977).

[9] Pub. L. 95-95, 91 Stat. 685 (Aug. 7, 1977).

[10] 42 FR 45942 (Sept. 13, 1977).

[11] 42 FR 3192, 3194 (Jan. 17, 1977).

[12] *See* 43 FR 25729 (June 14, 1978), pertaining to 1980 and subsequent model year passenger cars; 43 FR 1829 (Jan. 12, 1978), pertaining to 1981-82 light duty trucks and medium duty vehicles; 43 FR 15490 (Apr. 13, 1978), pertaining to 1983 and subsequent model year light duty trucks and medium duty vehicles.

Furthermore, California has determined that its underlying standards as affected by the allowable maintenance limitations are at least as protective of public health and welfare as the applicable Federal standards.[13] The public record does not contain clear and compelling evidence that this *determination* was arbitrary and capricious. As discussed later, the record contains assertions that *the restrictions themselves* are arbitrary and capricious or were adopted in an arbitrary and capricious manner. But, these contentions do not address the narrow determination to be reviewed herein. Accordingly, I find no basis for denying the waiver on this issue.

Consistency of Procedures. If I find that the California certification procedures conflict with the corresponding Federal procedures so as to make manufacturers unable to meet Federal and California requirements with the same test vehicle, I must deny the waiver unless the conflicts are resolved through administrative action. Because the California limitations on maintenance during certification are more restrictive than the corresponding Federal prodecures,[14] and because the manufacturers presented no arguments on this issue, I cannot find a conflict between the respective certification procedures.[15]

Technology and Lead Time. I also must deny a California waiver request if I find inadequate lead time remaining to permit the development and application of the requisite technology. For the purposes of this discussion, I distinguish at times between the certification and in-use instruction limitations. However, because the in-use instruction limitations relate to the manufacturer's ability to produce motor vehicles which will conform to the standards throughout their useful life, their technological feasibility along with that of the certification limitations is relevant to my decision.

With regard to certification maintenance limitations, Chrysler found them technologically feasible.[16] Ford also could comply with the limitations as they related to certification.[17] Ford and Chrysler did qualify their assessments by stating that they applied only to certification, and not to in-use or recommended maintenance.[18] AMC, although it could not say the limitations were technologically feasible, could not state that they were technologically infeasible.[19]

General Motors was the one major American manufacturer to argue that both the certification and in-use limitations were not technologically feasible within the remaining lead time.[20] General Motors, and others, pointed to the oxygen sensor as one essential component in future emission control systems having relatively unknown durability characteristics.[21] Some evidence in the record tended to support this position.[22] However, indications by Ford[23] and information provided by my staff regarding recent technological advancements suggest otherwise.[24] Based on the record before me, I cannot find that there is inadequate lead time in which to develop and apply the requisite technology.

Several manufacturers contended that the allowable maintenance limitations will inhibit the development and implementation of new emissions control technology.[25] The lack of actual examples, which would constitute evidence of this problem, make this argument speculative. Furthermore, the rapid technological advancements with regard to oxygen sensors, mentioned above, are strong evidence that manufacturers can design both new and durable emissions control components while meeting California's limited maintenance requirements.

The remaining objections, regarding specific maintenance items, pertain mostly to the in-use limitations. Many manufacturers argued that to assure proper functioning, drive belts required a "check and replace if necessary" maintenance instruction more frequently than every 30,000 miles.[26] AMC presented the only data supporting this position. That data consisted of test results showing a significant decrease in belt tension after initial operation.[27] However, subsequent evidence indicated that belt tension stabilizes after initial break-in, and the addition of a pre-sale check would reduce this problem.[28] Similar objections concerning "inspect and replace if necessary" maintenance items were made by several manufacturers with respect to air and fuel filters[29] and by General Motors with respect to emissions related hoses and tubings.[30] Provisions, discussed above, in the California regulations allow a manufacturer to recommend additional maintenance for extreme driving conditions or for safety reasons. In addition, General Motors in making its objection apparently did not give full consideration to all of the technological alternatives available at the time of the public hearing.[31] For these reasons, there is insufficient evidence to support a finding based on the foregoing arguments that the allowable maintenance regulations are technologically infeasible within the remaining lead time.

Subaru contended that small, highly loaded engines, and particularly those operating on leaded fuels, cannot run for 30,000 miles between spark plug changes.[32] Another argument, made by General Motors, centered on the need for more frequent adjustments to mechanical ignition timing systems, which GM intends to continue utilizing.[33] Again, I do not find these arguments to be persuasive due to the lack of supporting evidence.

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[13] State of California Air Resources Board, Resolution 77-48 at 4 (Sept. 30, 1977).

[14] *Compare* 40 C.F.R. § 86.078-25 and 1980 Test Procedures ¶ 3f. Since the Federal regulations specify the maximum frequency for performing various maintenance items, any less frequent intervals would not conflict with these regulations.

[15] Objections regarding possible conflicts between California's and Federal maintenance instruction limitations which do not present conflicting methods of obtaining certification, are discussed hereinafter.

[16] Transcript of public hearing on California waiver request 231-232 (Aug. 3-4, 1977) [Hereinafter "August Tr."].

[17] August Tr. 130. Prior to the public hearing on Aug. 3-4, 1977, California banned the use of the fuel additive MMT in certification fuel. *See* letter from G. C. Hass, CARB, to all motor vehicle manufacturers (July 8, 1977). This eliminated the grounds for Ford's objection to the certification limitations.

[18] *See* notes 16,17, *supra.*

[19] August Tr. 237.

[20] August Tr. 154, 161; General Motors statement to the CARB on proposed changes to allowable maintenance practices 8-10 (May 26, 1977); letter from Mr. T. M. Fisher, director, Automotive Emission Control, General Motors Corp., to Mr. Benjamin R. Jackson, director, Mobile Source Enforcement Division (MSED), EPA 2-3 (Aug. 26, 1977) [hereinafter GM Aug. 26, 1977, letter].

[21] August Tr. 187-188; Toyota comments before the EPA waiver hearing on the California exhaust emission standard for 1982 and subsequent model light and medium-duty vehicles, attachment I at 2 (Aug. 3-4, 1977); letter from Mr. Thomas C. Austin, deputy executive officer, CARB to Mr. Benjamin R. Jackson, director, MSED, EPA, attachment I at 4 (Aug. 31, 1977).

[22] *Id.;* State of California Air Resources Board, staff Report No. 77-12-1, at 13 (May 26, 1977).

[23] August Tr. 140.

[24] Memorandum from James McNab III, to file (Mar. 17, 1978).

[25] August Tr. 140-141, 146, 150-151, 188, 236, 237, 254. GM Aug. 26, 1977, letter 4. Transcript of public hearing on California waiver requests 175 (Oct. 13, 1977) [hereinafter "October Tr."].

[26] August Tr. 117, 161, 167-168, 228, 233, 235, 238; GM Aug. 26, 1977, letter 6-7; Toyota comments, note 21, *supra,* attachment I at 1; Volkswagen and Audi's reply to CARB proposal for changes to regulations regarding allowable maintenance during new vehicle certification of light-duty and medium-duty vehicles 2 (Apr. 28, 1977).

[27] August Tr. 235.

[28] August Tr. 237-238.

[29] August Tr. 228; GM Aug. 26, 1977; letter 5-6; Toyota comments, note 20, *supra,* attachment I at 2.

[30] August Tr. 169-174; GM Aug. 26, 1977, letter 6-7.

[31] Ronald E. Kruse, "Analysis of the Technical Feasibility of the California Allowable Maintenance Regulations"—waiver hearing, Aug. 3-4, attachment II (November 1977) [hereinafter "EPA Analysis"].

[32] August Tr. 253.

[33] August Tr. 183-184; GM Aug. 26, 1977, letter 4.

Lastly, General Motors argued that the CARB had failed to demonstrate that the regulations are technologically feasible.[34] This contention, however, ignores the fact that the manufacturer has the burden of demonstrating the existence of grounds upon which, under the criteria enumerated in section 209(b), I must deny a waiver request.[35]

Based on the foregoing discussion and the analysis of my staff,[36] I cannot find that there is inadequate lead time remaining to permit the development and application of the requisite technology.

Cost of Compliance. The CARB estimated that the regulations would reduce maintenance costs by an amount sufficient to offset any increase in retail costs, resulting in a net cost benefit.[37] The manufacturers did not challenge this conclusion. Several trade associations, representing the aftermarket parts and service industry, argued that the regulations would not result in a cost benefit.[38] These arguments are not supported by data refuting the CARB's conclusion. In addition, a finding that the regulations are cost effective is not required. Accordingly, I cannot find that the cost of complying with California's restrictions on allowable maintenance presents sufficient grounds for denying the waiver request.

Objections to Granting the Waiver. Ford, General Motors, AMC, and the Motor and Equipment Manufacturers Association all argued that California does not need restrictions on allowable maintenance as they, in the eyes of the interested parties, will contribute to rather than alleviate California's air pollution problems.[39] In prior waiver decisions, I have addressed my scope of review insofar as "accompanying enforcement procedures" are concerned.[40] Under section 209(b) the question of need is only applicable to a waiver request concerning standards.

As mentioned above, several interested parties argued in various ways that the California regulations are arbitrary and capricious or were adopted in an arbitrary and capricious manner.[41] These contentions are all beyond the narrow scope of review granted to me by section 209(b)(1)(A) of the act and its legislative history.[42] As prior waiver decisions have held, section 209(b) does not give me the latitude to review procedures at the State level, and the EPA hearing is not the proper forum in which to raise these objections.[43] Similarly, objections pertaining to the wisdom of California's judgment on various public policy matters[44] are beyond my scope of review.[45]

The most often expressed objection to these regulations centered on potential conflicts between the California limitations on what maintenance instructions may be provided to owners and section 207(c)(3)(A) of the act.[46] This section of the act provides that the manufacturer shall provide maintenance instructions which correspond to regulations promulgated by the Administrator. Interested parties argued that this provision entirely preserves this area for Federal regulation and that California's maintenance instructions are not entitled to a waiver.[47]

I cannot accept this contention. A State's right to prescribe limitations on allowable maintenance is not preempted by the existence of section 207(c)(3)(A). The only applicable preemption provision in the act is section 209(a); it is what prevents States from acting on their own.[48] Because the California maintenance instruction requirements constitute a condition precedent to the initial retail sale of a new motor vehicle in California, they fall within the purview of section 209(a) and are subject to preemption. California has received a waiver for the underlying standards, and I have found that I cannot deny the waiver request for these limitations under the criteria specified in section 209(b)(1). The maintenance instruction limitations are, therefore, entitled to a waiver and are no longer subject to the preemption of section 209(a).

Interested parties further contended that they cannot provide maintenance instructions which are consistent with both section 207(c)(3)(A) and the California limitations.[49] The initial arguments, contending that a manufacturer has the right to determine what maintenance is reasonable and necessary, have been mooted by the Clean Air Act Amendments of 1977.[50] Until I promulgate regulations regarding written maintenance instructions, Califor-

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[34] August Tr. 154; October Tr. 174.

[35] 40 FR 30311, 30314 (July 18, 1975).

[36] EPA analysis 3-5.

[37] Staff Report 77-12-1, note 22, supra, 28-30, 32-33; August Tr. 29.

[38] August Tr. 89-91, 194-197; "Comments of Automotive Service Industry Association (ASIA) in Opposition to Waiver Request of the California Air Resources Board Regarding Allowable Maintenance" 3 (July 25, 1977); "Supplemental Comments of ASIA Relative to Waiver Requests of the California Air Resources Board Regarding Allowable Maintenance" 3 (Sept. 23, 1977); Letter from Mr. Frank Engler, Chairman, Trust for Automotive Political Education, to Mr. Benjamin R. Jackson, Director, MSED, EPA, 1 (July 27, 1977).

[39] August Tr. 91-92, 133, 154, 190-191, 237; GM Aug. 26, 1977 Letter 2; Statement of Ford Motor Co., "Clean Air Act Amendments of 1977—Limitations on Maintenance Adopted by California" 4 (Oct. 13, 1977) [hereinafter "Ford's October Statement"]; Letter from T. M. Fisher, Director, Automotive Emission Control, General Motors, to Mr. B. R. Jackson, [Director], MSED, EPA, (Feb. 16, 1978); "General Motors Analysis of the Reports Used by the California Air Resources Board to Support the Restricted Maintenance Regulation" 1-8, 15 (Feb. 1978). The CARB Staff Reports and other submissions to the public record disagreed with this contention. It contended that given vehicle owners' maintenance practices, improved designs which would result from the allowable maintenance limitations would result in emissions reductions. See State of California Air Resources Board, Staff Report 77-9-2, at 1, 3-12, 19-28 (Apr. 28, 1977); Staff Report 77-12-1, note 22, supra, 1, 3-12, 19-28; CARB Letter of Aug. 31, 1977, note 21, supra, Attachment I at 13; Letter from Mr. Thomas C. Austin, Deputy Executive Officer, CARB, to Mr. Benjamin R. Jackson, MSED, EPA, 1-4 (Mar. 20, 1978).

[40] 43 FR 9344, 9345 (Mar. 7, 1978).

[41] Motor Vehicle Manufacturers Association of the United States, Inc., "A Memorandum to the California Air Resources Board Regarding Proposed Maintenance Requirements" 1-4, 7-8 (Jan. 31, 1977) [hereinafter "MVMA Memo"]; Memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Co., to B. R. Jackson, Presiding Officer, EPA, 24-33 (Sept. 9, 1977) [hereinafter "Ford Sept. 9, 1977 Memo"]; GM Aug. 26, 1977 letter 4, 8; October Tr. 176-179, 183, 185-189, 191; Supplemental Comments of ASIA, note 38, supra, 3; Ford's October Statement 2; Letter from Michael W. Grice, Esq., Chrysler Corp., to Mr. Benjamin R. Jackson, Director, MSED, EPA, 2 (Oct. 28, 1977). General Motors Analysis, note 39, supra, 15; Letter from T. M. Fisher to Mr. Benjamin R. Jackson of Feb. 16, 1978, note 39, supra.

[42] 42 U.S.C. 7543(b)(1)(A) (1977); H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 301-302 (1977).

[43] 42 FR 44209, 44212 (Oct. 7, 1976).

[44] Notes 38 and 39, supra; August Tr. 86-113, 193-209.

[45] 42 FR 44209, 44210 (Oct. 7, 1976).

[46] 42 U.S.C. § 7541(c)(3)(A) (1977).

[47] Comments of ASIA, note 38, supra, 3; MVMA Memo 6-7; MVMA Response to the Staff Memorandum 6 (Jan. 31, 1977); August Tr. 88-89, 123, 214-215, 219, 224-225, 254; October Tr. 137-139; Ford's October Statement 5-6.

[48] Section 116 of the act identifies sections that preempt certain State actions; the remaining powers are left to the States. 42 U.S.C. § 7416 (1977); CARB, "Memorandum of Legal Points" 10 (Oct. 13, 1977).

[49] Comments of ASIA, note 38, supra, 3; Letter from MVMA, note 47, supra 2; MVMA Memo 4-6; MVMA Response to the Staff Memorandum 5-6 (Jan. 31, 1977); Supplemental Comments of ASIA, note 38, supra, 1-3; August Tr. 87-88, 115, 124-125, 156-158, 214, 221; Statement of Ford Motor Co.—Hearing of the Environmental Protection Agency to Consider California's Request for a Waiver with Respect to Emission Control Related Maintenance 4-5 (Aug. 3, 1977) [hereinafter "Ford's August Statement"]; General Motors Legal Comments to the CARB Regarding Proposed Regulations to Limit the Amount of Maintenance Which Vehicle Manufacturers may Perform during Certification and Recommend to their Customers 3-5 (May 26, 1977).

[50] See 42 FR 45942, 45943 (Sept. 13, 1977) wherein EPA determined that the Clean Air Act Amendments of 1977 applied to all pending waiver requests including this one.

nia's limitations clearly do not conflict with any Federal requirements. I will give appropriate consideration to California's regulatory scheme in any regulations I promulgate.

Another major objection, raised primarily by Ford and General Motors, challenged the maintenance limitations on several constitutional grounds.[51] Despite contentions to the contrary, these arguments are beyond the scope of my review, and the waiver hearing is not the proper forum in which to raise them.[52] Accordingly, I am not legally empowered to make a determination regarding these contentions.

IV. Findings and Decision

Having given due consideration to the public record, I find that I cannot make the findings required for a denial of a waiver under section 209(b)(1) of the act. Therefore, I hereby waive application of section 209(a) of the act to the State of California with respect to: (1) paragraphs 3e, 3f, 3g and 3h of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model [Year] Passenger Cars, Light Duty Trucks and Medium Duty Vehicles," as amended September 30, 1977 and incorporated by reference in Title 13, California Administrative Code, § 1960(b) and (2) section 1960(c) of Title 13 of the California Administrative Code, adopted May 26, 1977. This waiver covers the limitation on allowable maintenance applicable to 1980 and subsequent model year gasoline-powered passenger cars and 1981 and subsequent model year gasoline-powered light duty trucks and medium duty vehicles.

My decision to grant the waiver will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, Calif. 95812.

Dated: July 17, 1978.

Douglas M. Costle,
Administrator.

[FR Doc. 78-20518 Filed 7-24-78; 8:45 am]

[51] "Ford Motor Co. Suggested Agenda for Meeting with CARB Legal Counsel Regarding Proposed Limitations on Regularly Scheduled Maintenance" 3 submitted July 25, 1977; MVMA Response to the Staff Memorandum 12-13 (Jan. 31, 1977); August Tr. 127-129, 158-159, 230; Ford's August Statement 7-10; General Motors Legal Comments (May 26, 1977), note 49, supra, 7, 9-13; Ford's October Statement 6-8.

[52] 42 FR 2337, 2339 (Jan. 11, 1977).

[6560-01]

[FRL 931-7; OPP-00074]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, August 10 and 11, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Completion of Panel review on FIFRA Section 6(b) action on chlorobenzilate products;

2. A briefing will be given to the Panel on the principal decision options which are being considered by the Agency to conclude the compound 1080, compound 1081, and strychnine RPAR's (rebuttable presumption against registration); and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit copies of a summary no later than August 4, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Statutory Authority: Section 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Dated: July 19, 1978.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-20559 Filed 7-24-78; 8:45 am]

[6560-01]

[FRL 931-2]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE, SUBCOMMITTEE ON TOXIC SUBSTANCES

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one day meeting of the Subcommittee on Toxic Substances of the Science Advisory Board will be held on Friday, August 18, 1978 in Conference Room A (room 3906), Waterside Mall, 401 M Street SW., Washington, D.C. The meeting will start at 10 a.m.

The subcommittee will be meeting for the fourth time, the purpose being to review elements of the health and environmental effects test standards proposed by the Office of Toxic Substances.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. August 15, 1978. Please ask for Mrs. Shirley Smith. The telephone number is 202-755-0263.

Richard M. Dowd,
Staff Director, Science Advisory Board.

July 18, 1978.

[FR Doc. 78-20556 Filed 7-24-78; 8:45 am]

[6560-01]

[FRL 931-3; OTS-010002]

TOXIC SUBSTANCES CONTROL ACT

Security of Confidential Business Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of security manual.

SUMMARY: The Office of Toxic Substances of the Environmental Protection Agency has adopted a security manual for confidential business information submitted under the Toxic Substances Control Act (TSCA). Copies of the manual are available to the public. The requirements of the manual are effective immediately and are being fully implemented as quickly as possible.

ADDRESS: Copies of the security manual may be obtained by calling or writing the Director, Industry Assistance Office (TS-793), Environmental Protection Agency, Office of Toxic Substances, 401 M Street SW., Washington, D.C. 20460, telephone 800-424-9065. In Washington, D.C., call 554-1404.

FOR FURTHER INFORMATION CONTACT:

Roger M. Connor, Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C. 20460, telephone 202-755-6956.

SUPPLEMENTARY INFORMATION: In promulgating regulations under TSCA, EPA received comments which expressed concern about EPA's ability to protect information submitted to EPA as confidential. In response to those comments, EPA set up a TSCA Data Security Task Force with a mandate to examine and propose any needed changes in EPA's internal procedures for safeguarding confidential business information submitted under TSCA. On November 7, 1977, EPA published notice (42 FR 57984) of the formation of the Task Force and of its objectives and solicited comments on the issues to be addressed by the Task Force. The Task Force held a public meeting on November 18, 1977, to receive comments from the public.

The Task Force developed Interim Procedures which were adopted January 1, 1978, (43 FR 1836) for the security of confidential business information submitted to EPA pending development of final security procedures. These Interim Procedures were made available to the public.

On April 3, 1978, EPA published a notice (43 FR 13915), of the availability of draft final procedures for the security of TSCA confidential business information. EPA solicited public comments on these procedures.

Approximately 15 written comments were received. The Task Force also held a public meeting on April 24, 1978, and received oral comments.

The Task Force considered all these comments in drafting the final security manual which has been issued by the Assistant Administrator for Toxic Substances. The manual will soon be signed by the Administrator and issued as an EPA manual.

Changes were made in the procedures from the draft issued April 3, 1978. Many of the changes were editorial or for clarification. The more substantive changes are summarized following:

1. Authorizations for access to TSCA confidential business information will be limited in nature rather than general. The Assistant Administrator for Toxic Substances will approve each individual for whom access is requested and will specify the degree of access allowed.

2. Within an EPA division, custody of documents containing TSCA confidential business information may be transferred between authorized persons by means of a receipt form without the concurrence of the Document Control Officer. Any transfers outside of the division must still be done through the Document Control Officer.

3. The computer security provisions have been changed to require encryption of information and there are specific confidentiality provisions for maintenance personnel.

4. The restrictions on the physical transfer of TSCA confidential business information between facilities will also apply to all transfers outside of EPA.

5. Specific responsibilities have been added for Security Representatives who work in the regional offices.

6. Investigation procedures for violations of the procedures have been changed to provide that the affected business will be notified of any criminal or potential criminal offense only after investigation and approval by the Department of Justice.

7. An additional contract clause has been included to cover the situation where an EPA contractor acquires confidential business information directly from an affected business rather than through EPA.

8. Inspections of contractor facilities and other Federal agencies by the Security and Inspection Division have been made mandatory.

9. Procedures for following up on lost or mislaid documents have been added.

Some of the comments were not accepted. The significant ones are summarized following:

1. Some of the comments addressed the issue of notice to affected businesses prior to disclosures outside of EPA. This matter is the subject of EPA's confidentiality regulations in 40 CFR Part 2, Subpart B, which are currently being revised. These comments will be addressed in those regulations.

2. Some comments proposed that EPA require specific security measures for Congress or Federal Courts before disclosures to them. EPA is not in a position to mandate security for Congress or the Federal Courts.

3. Some comments suggested that EPA contractors and subcontractors be bonded before handling confidential business information. EPA made inquiries of the bonding industry and was told that bonds of this nature would not be available. Therefore, EPA does not believe it is practicable to place such a requirement on contractors and subcontractors.

4. Some comments asked that all confidential inventory information be placed under the designation "Special Category Confidential Business Information." This category was designed to allow additional safeguards for particularly sensitive information. Because the Assistant Administrator for Toxic Substances must approve all access to this type of information, the administrative burden of additional information in the category would be too great.

The security manual in its final form represents a balance between the need for security and the need for EPA to have administrative flexibility to perform its primary statutory duties under TSCA. It provides the greatest amount of security possible without impairing EPA's ability to carry out its duties under TSCA.

The requirements of the manual are effective immediately and are being implemented as quickly as possible.

Dated: July 19, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-20557 Filed 7-24-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

NATIONAL INDUSTRY ADVISORY COMMITTEE

Renewal

The Federal Communications Commission has determined that renewal of the National Industry Advisory Committee (NIAC) for an additional 2-year period is necessary and in the public interest.

The National Industry Advisory Committee was established in 1958 to furnish advice and recommendations to the Commission concerning (1) the design and implementation of operational emergency communications policies, plans and procedures; (2) pro-

posed tests and exercises of operational emergency procedures; and (3) the establishment of authentication procedures. The NIAC recommends to the Commission procedures to incorporate FCC—licensed and regulated services into the established emergency communications network.

The renewal of the National Industry Advisory Committee is effective July 26, 1978 and will extend until July 25, 1980. Concurrent with this renewal, the terms of present members of the committee are extended until July 25, 1980.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-20492 Filed 7-24-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Committee Extension

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the continuance by the Secretary of Health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the Mental Health Services Research Review Committee until September 30, 1978.

Dated: July 18, 1978.

GERALD L. KLERMAN,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-20491 Filed 7-24-78; 8:45 am]

[4110-03]

[Docket No. 78N-0202; DESI 6290]

CYPROHEPTADINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing cypro- heptadine hydrochloride for the indications for which it is now regarded as effective and offers an opportunity for a hearing concerning the indications reclassified to lacking substantial evidence of effectiveness. The drug is used for certain allergic conditions.

DATES: Hearing requests due on or before August 24, 1978.

Supplements to approved NDA's due on or before September 25, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6290, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applicators (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATON CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 6290; Docket No. FDC-D-324 (now Docket No. 78N-0202)) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11758), the Food and Drug Administration announced its conclusions that the drug products described below are effective, probably effective, possibly effective, or lacking substantial evidence of effectiveness for their various labeled indications. It offered an opportunity for a hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. The notice that follows does not pertain to those indications. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action. Other drugs included in the June 18, 1971 notice, but not named below, are not affected by this notice.

1. NDA 12-649; Periactin Tablets; and

2. NDA 13-220; Periactin Syrup; each containing cyproheptadine hydrochloride; Merck Sharp & Dohme, Division of Merck and Co., Inc., West Point, Pa. 19486.

On December 17, 1971, Merck Sharp & Dohme submitted supplemental new drug applications containing a protocol of a study for the control of pruritus in varicella (chicken pox) with Periactin. The Food and Drug Administration evaluated the protocol and on May 10, 1972, issued a letter to Merck Sharp & Dohme stating the deficiencies noted in the protocol. No other supplemental applications have been submitted for this indication, although some followup data on the study have been submitted in annual reports.

On August 14, 1974, and February 18, 1975, Merck Sharp & Dohme submitted supplemental new drug applications containing substantial evidence of effectiveness for the indication "for use in cold urticaria." This indication is regarded as effective and is included in the labeling conditions below. No other supplemental applications were submitted in support of the probably effective and possibily effective indications and they are now reclassified to lacking substantial evidence of effectiveness.

Accordingly, the June 18, 1971 notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications set forth in the labeling conditions below. The drug products now lack substantial evidence of effectiveness for the other indications evaluated as probably effective and possibly effective in the June 18, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Adminis-

tration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet or syrup form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Perennial and seasonal allergic rhinitis.
Vasomotor rhinitis.
Allergic conjunctivitis due to inhalant allergens and foods.
Mild, uncomplicated allergic skin manifestations of urticaria and angioedema.
Amelioration of allergic reactions to blood or plasma.
Cold urticaria.
Dermatographism.
As therapy for anaphylactic reactions adjunctive to epinephrine and other standard measures after the acute manifestations have been controlled.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Bioavailability regulations (21 CFR 320.21) published in the FEDERAL REGISTER of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bio-availability of the drug or information to permit waiver of the requirement, unless such evidence is already waived under section 320.22(c). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug applications and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him at the time of approval of the applications, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

The applicant or any person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before August 24, 1978, a written notice of appearance and request for hearing, and (2) on or before September 25, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 14, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-20495 Filed 7-24-78; 8:45 am]

[4110-03]

[Docket No. 78P-0155]

HELENA LABORATORIES

Request for Data and Information on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice invites interested persons to submit information, data, and views on a petition filed under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)) by Helena Laboratories, Beaumont,TX 77704, for a Glycosylated (Fast Fraction) Hemoglobin Quick Column Methodology. Material submitted will be forwarded to members of the Clinical Chemistry and Hematology Device Classification Panel, who will make a recommendation on the petition to the Food and Drug Administration (FDA).

DATE: Information, data, and views should be submitted by August 24, 1978.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857; information, data, and views should be submitted (preferably five copies) to Kaiser Aziz, Executive Secretary, Clinical Chemistry and Hematology Device Classification Panel (address given below).

FOR FURTHER INFORMATION CONTACT:

Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTAL INFORMATION: On February 17, 1978, Helena Laboratories, Beaumont, TX 77704 submitted, under section 513(f)(2) of the act, a reclassification petition for a device that it intended to market for the quantitation of glycosylated or fast fraction hemoglobins, a device the manufacturer calls "The Helena Glycosylated (Fast Fraction) Hemoglobin Quik Column Methodology." The reclassification petition stated that the device is not substantially equivalent to a device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

The agency reviewed the petition and determined that it did not contain any deficiency that prevents FDA from making a decision on the petition. However, the agency's review did raise certain questions concerning the scientific data submitted in support of the petition. On May 24, 1978, the manufacturer supplemented the petition by submitting voluntarily additional information in answer to these questions.

Section 513(f) of the act requires the Commissioner of Food and Drugs to submit the petition to a device classification panel for a recommendation concerning classifications. The panel is required to make its recommendation to the Commissioner within 90 days after the petition is referred to the panel. Ordinarily, the petition would be discussed at an open panel meeting before the panel makes its recommendation. However, a meeting of the Clinical Chemistry and Hematology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. Therefore, this petition has been mailed to the voting members of the Panel for their review and recommendation to FDA. The Panel will make its recommendation to FDA by mail.

Section 513(f) of the act also requires the Commissioner to provide an opportunity for interested persons to provide information, data, and views to the Panel before it makes its recommendation. Information, data, and views will be mailed to the Panel members for their consideration before they make their recommendation. Then each voting member will send the Executive Secretary of the Panel a completed supplemental data sheet and a complete classification questionnaire applicable to the device for which a recommendation is sought. The Panel recommendation will be published in the FEDERAL REGISTER. A period for public comment will follow, and then the Commissioner will issue a final regulation approving or denying the petition no more than 210 days after the submission of an adequate petition.

Dated: July 17, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-20496 Filed 7-24-78; 8:45 am]

[4110-84]

Health Services Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1978:

Name: Interagency Committee on Emergency Medical Services.

Date and time: August 10, 1978, 9 a.m.

Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open for entire meeting.

Purpose: The Committee coordinates and provides for the communication and exchange of information among all Federal programs and activities relating to emergency medical programs and makes recommendations to the Secretary respecting the administration of grants and contracts under title XII, including making regulations for the emergency medical services systems program.

Agenda: The items include: (1) Committee's Reply to the House Appropriations Committee Report, (2) Proposed Federal Aviation Administration Regulations on Air Ambulances, (3) Planning for Airport Disasters, and (4) Report on EMS in National Parks.

The meeting is open to the public for observation. Anyone wishing to attend, obtain the roster of members, minutes of meeting, or other relevant information should contact Mr. Lee Shuck, Division of Emergency Medical Services, Bureau of Medical Services, Suite 11-64D, 6525 Belcrest Road, Hyattsville, Maryland 20782, Telephone (301) 436-6284. Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: July 20, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 78-20636 Filed 7-24-78; 8:45 am]

[4110-08]

National Institutes of Health

NATIONAL ARTHRITIS ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Arthritis Advisory Board will host a "Public Policy and Chronic Disease Care" Conference, September 21, 1978, 9 a.m. to 5 p.m., National Institutes of Health, Bethesda, Md., building 31, conference room 6C; and on September 22, there will be a meeting of the National Arthritis Advisory Board, 9 a.m. to 5 p.m., NIH Bethesda, Md., building 31, conference room 9C, to discuss the Board's activities and to continue its evaluation of the implementation of the long-range plan to combat arthritis.

The Conference and the Board meeting will be open to the public. Attendance is limited to space available. Further information may be obtained from Mr. William Plunkett, Executive Secretary, National Arthritis Advisory Board, room 620, the Federal Building, 7550 Wisconsin Avenue, Bethesda, Md., telephone 301-496-1991.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, building 31, room 9A04, Bethesda, Md. 20014, 301-496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: July 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-20541 Filed 7-24-78; 8:45 am]

[4110-08]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Commission on Digestive Diseases, September 18 and 19, 1978, National Institutes of Health, Bethesda, Md., building 31, conference room 8, 9 a.m. to 5 p.m.

The meeting, which is open to the public, is being held for the review and writing of the third draft of the Commission report. Attendance by the public is limited to space available.

Further information may be obtained from Dr. Thomas P. Vogl, Executive Secretary, National Commission on Digestive Diseases, room 6C16, the Federal Building, 7550 Wisconsin Avenue, Bethesda, Md., telephone 301-496-1347.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, building 31, room 9A04, Bethesda, Md. 20014, telephone 301-496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.484 National Institutes of Health.)

Dated: July 19, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-20540 Filed 7-24-78; 8:45 am]

[4110-08]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, August 10-11, 1978, Sheraton Boston Hotel, 39 Dalton Street, Boston, Mass.

This meeting will be open to the public from 8 p.m. to 8:30 p.m. on August 10, 1978, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 10, 1978, from 8:30 p.m. to adjournment, and on August 11, 1978, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of an individual grant application. This application and the discussion could reveal personal information concerning individuals associated with the application.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, building 31, room 5A-03, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, room 548B, phone 301-496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Dated: July 19, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-20538 Filed 7-24-78; 8:45 am]

[4110-08]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, September 14 and 15, 1978. The meeting will be held in conference room 7, C-wing, building 31, National Institutes of Health, Bethesda, Md. 20014. The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on both days, to discuss recommendations on the implementation and evaluation of the sickle cell disease program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, building 31, room 5A03, 301-496-4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, building 31, room 4A29, 301-496-6931, will furnish substantive program information.

Dated: July 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-20539 Filed 7-24-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 1,1-DICHLOROETHANE FOR POSSIBLE CARCINOGENICITY

Availability

1,1-Dichloroethane (CAS 75-34-3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade 1,1-dichloroethane for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. 1,1-Dichloroethane in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species, 5 days a week for a period of 78 weeks, followed by an observation period of 33 weeks for rats and 13 weeks for mice.

A preliminary subchronic toxicity test, consisting of 6 weeks of 1,1-dichloroethane administration at five dosage levels followed by 2 weeks of observation, was performed for the purpose of selecting initial dosages. Subsequent dosage adjustments were made during the course of the study. The high and low time-weighted average dosages of 1,1-dichloroethane were, respectively, 764 and 382 mg/kg/day for male rats; 950 and 475 mg/kg/day for female rats; 2885 and 1442 mg/

kg/day for male mice; and 3331 and 1665 mg/kg/day for female mice.

For each species, 20 animals of each sex were placed on test as vehicle controls. These animals were gavaged with corn oil at the same times that dosed animals were gavaged with 1,1-dichloroethane mixtures. Twenty animals of each sex were placed on test as untreated controls for each species. These animals were not intubated.

Survival was poor in all rat groups and several mouse groups. Survival at the end of the study in the untreated control, vehicle control, low dose, and high dose groups was, respectively, 30, 5, 4, and 8 percent in male rats; 40, 20, 16, and 18 percent in female rats; 35, 55, 62, and 32 percent in male mice; and 80, 80, 80, and 50 percent in female mice. Pneumonia was observed in 80 percent of the rats in this bioassay.

There were dose-related marginal increases in mammary adenocarcinomas and in hemangiosarcomas among female rats and there was a statistically significant increase in the incidence of endometrial stomal polyps among dosed female mice as compared to controls. These findings are indicative of the possible carcinogenic potential of the test compound. However, it must be recognized that under the conditions of this bioassay there was no conclusive evidence for the carcinogenicity of 1,1-dichloroethane in Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, building 31, room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393. Cancer Cause and Prevention Research.)

Dated: July 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-20537 Filed 7-24-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 2-AMINO-5-NITROTHIAZOLE FOR POSSIBLE CARCINOGENICITY

Availability

2-Amino-5-nitrothiazole (CAS 121-66-4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 2-amino-5-nitrothiazole for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats and 50 mice of each sex were fed 2-amino-5-nitrothiazole at one of the following doses, either 300 or 600 ppm for rats, and either 50 or 100 ppm for mice. The rats were dosed for 110 weeks, followed by 1 week of observation; the mice were dosed for 104 weeks. Matched controls consisted of 50 untreated rats and 50 untreated mice of each sex. All surviving rats were killed at week 111, all surviving mice at week 104.

The mean body weights of the groups of rats and mice fed 2-amino-5-nitrothiazole in the diet were slightly lower than those of the controls throughout most of the period of administration. No other clinical signs related to administration of the chemical were noted. There was a dose-related trend in mortality only in the male rats; however, sufficient numbers of rats were at risk in all groups for development of late-appearing tumors.

It is concluded that under the conditions of this bioassay, the occurrence of tumors of the hematopoietic system, i.e., lymphoma and granulocytic leukemia, in dosed male Fischer 344 rats was associated with administration of 2-amino-5-nitrothiazole. 2-Amino-5-nitrothiazole was not carcinogenic in female Fischer 344 rats or in male or female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: July 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-20536 Filed 7-24-78; 8:45 am]

[4110-92]

Office of Human Development Services

CHILD ABUSE AND NEGLECT STATE GRANTS

Revision

ACTION: Notice of Revision of Minimum Base for State Grant Allotments and Revised Allotments for fiscal year 1978.

SUMMARY: The Commissioner of the Administration for Children, Youth and Families has determined that the allotments to eligible States, awarded under 42 U.S.C. 5103 and 45 CFR 1340.3-7, should be computed on a base of $25,000 per State and an additional amount based on the ratio of each State's children compared to the total number of children in all States. This represents an increase in the base figure of $5,000 per State and will result in a more equitable allotment among the States, as required under section 4(d) of the Child Abuse Prevention and Treatment Act of 1974, as amended.

DATE AND ADDRESS: States were notified earlier this year of the date for submission of applications for a State grant. There has been no revision to those dates. Applications should continue to be sent to the appropriate Regional Office.

FOR FURTHER INFORMATION CONTACT:

Douglas Besharov, Director, National Center on Child Abuse and Neglect/Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare, P.O. Box 1182, Washington, D.C. 20013; 202-755-0587.

SUPPLEMENTARY INFORMATION: Under the redelegations of authority, the Commissioner of the Administration for Children, Youth and Families awards grants to eligible States for developing, strengthening and carrying out child abuse and neglect prevention and treatment programs, under section 4(b)(1) of the Child Abuse Prevention and Treatment Act, as amended. The regulations, at 45 CFR 1340.3-7 provide for the allocation of funds based on the following:

"(1) An amount of $20,000, or such other amount as the Secretary may determine, for a fiscal year, plus,

(2) An additional amount bearing the same ratio to the total amount made available for this purpose after providing for the minimum amounts in paragraph (a)(1) of this section as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. The number of children under the age of eighteen to be used in this allocation shall be the number as determined by official estimates furnished to the Secretary by the Department of Commerce by October 1 of the fiscal year for which Federal grant funds are appropriated.

(b) The Director will announce the allocations available to the States under section 4(b)(1) of the Act and this subpart."

The base figure is a minimum below which a State could not operate a project to strengthen and improve its child protection program. Without this revision of the base figure to $25,000, many States would fall below a workable minimum project grant, resulting in an inequitable distribution of funds.

Therefore, the base figure for fiscal year 1978 is $25,000. The following are the revised State grant allotments, based on the revised formula:

FY 1978	
TOTALS	4,732,000
REGION I	
Connecticut	68,425
Maine	41,577
Massachusetts	105,647
New Hampshire	37,879
Rhode Island	38,081
Vermont	32,458
REGION II	
New Jersey	130,279
New York	277,035
Puerto Rico	89,803
Virgin Islands	26,926
REGION III	
Delaware	33,725
Dist. of Col.	34,232
Maryland	85,954
Pennsylvania	188,840
Virginia	100,695
West Virginia	52,621
REGION IV	
Alabama	82,213
Florida	138,537
Georgia	105,711
Kentucky	78,355
Mississippi	66,248
North Carolina	108,801
South Carolina	71,770
Tennessee	89,145
REGION V	
Illinois	194,058
Indiana	107,281
Michigan	167,513
Minnesota	85,599
Ohio	185,851
Wisconsin	95,630
REGION VI	
Arkansas	57,991
Louisiana	91,425
New Mexico	45,630
Oklahoma	66,451
Texas	230,937
REGION VII	
Iowa	67,819
Kansas	58,795
Missouri	94,414
Nebraska	48,467
REGION VIII	
Colorado	65,184
Montana	37,018
North Dakota	35,195
South Dakota	35,752
Utah	49,278
Wyoming	31,547
REGION IX	
No. Marianas	25,443
American Samoa	25,793
Arizona	62,551
California	341,574
Guam	27,323
Hawaii	39,146
Nevada	34,941
Trust Territory	28,199
REGION X	
Alaska	32,662
Idaho	39,501
Oregon	59,612
Washington	78,963

Dated: July 7, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth and Families.

Approved: July 19, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-20494 Filed 7-24-78; 8:45 am]

[4110-02]

Office of Education

EMERGENCY SCHOOL AID ACT

Interpretation

AGENCY: Office of Education, HEW.

ACTION: Notice of interpretation.

SUMMARY: The Commissioner of Education issues his interpretation that funds under the Emergency School Aid Act may be used for an otherwise authorized activity that a court order requires the applicant local educational agency to conduct.

EFFECTIVE DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. Interpretations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if Congress disapproves the interpretations or takes certain adjournments. If you want to know the effective date of this interpretation, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Jesse J. Jordan, room 2007, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202; telephone 202-245-7965.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to set out the Commissioner's interpretation as to whether funds under the Emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)) may be used for an otherwise authorized activity which a court order requires the applicant local educational agency to conduct. It is the Commissioner's interpretation that the statute and regulations promulgated under it (45 CFR Part 185) permit funds to be used for such an activity.

The Emergency School Aid Act authorizes financial assistance to local educational agencies, among others, for use in connection with any of several kinds of plans. Among the qualifying plans is one "which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, * * * and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination of reduction of minority group isolation in such schools." Section 706(a)(1)(A)(i). A local educational agency that is implementing such a plan may receive financial assistance principally for the desegregation-related educational activities described in section 707(a) of the statute.

Recently, local educational agencies have asked whether the fact that a court order requires them to carry out activities described in section 707(a) bars financial assistance under the statute to pay for those activities. The Commissioner's view is that it does not. A literal reading of the introductory language in section 707(a) and of section 710(a)(10) might appear to preclude assistance for court-ordered activities. Section 707(a) provides that "financial assistance * * * shall be available for programs and projects which would not otherwise be funded * * *." Section 710(a) provides that an application may be approved only if it, among other things,

> "(10) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available fron non-Federal sources for the purposes of the program of which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such programs, and (ii) in no case to supplant such funds from non-Federal sources * * *."

The Commissioner believes that the statute, read as a whole, and its legislative history support the view that the above-quoted statutory provisions do not bar the use of ESAA funds for otherwise authorized court-ordered activities. Neither the statute nor the program regulations squarely addresses the question presented. (The ESAA regulations repeat the above-quoted statutory provisions without elaboration at sections 185.12(a) and 185.13(g), respectively, and do not address the question elsewhere.) Yet the statute contains several provisions which bear on the question. First, section 702 of the statute provides, in part, as follows:

> "(a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.
>
> (b) The purpose of this title is to provide financial assistance—
>
> (1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools * * *."

Manifestly, the use of ESAA funds for court-ordered activities designed to meet educational needs associated with the implementation of a desegregation plan ordered by the court would be consistent with the congressional findings and purpose.

Second, section 706(a)(1)(A)(i), quoted above, leaves no doubt that assistance under the statute is available to a local educational agency that is implementing a court-ordered desegregation plan.

Third, the authorized activities in section 707(a) appear as likely to meet the needs incident to a court-ordered desegregation plan, including needs identified and required to be met by the court, as needs arising from other plans which qualify a local educational agency for assistance. In this connection, in "Milliken v. Bradley", 433 U.S. 267, the Supreme Court described activities beyond school reassignments that the Federal courts have sometimes required in school desegregation cases. The two principal activities discussed in the court's opinion (remedial education programs and in-service training) are expressly authorized under section 707(a)(1)-(4) of the ESAA.

In view of the above, the use of funds under the statute for otherwise authorized court-ordered activities would be compatible with statutory provisions relating to the Congressional object generally, the requirements for eligibility, and the authorized activities.

Given the tension between the statute as a whole and a literal reading of sections 707(a) and 710(a)(10), the Commissioner regards these provisions as somewhat imprecise expressions of Congress' intention to insure that funds under the statute be used for desegregation-related activities and not general aid to education. Numerous other provisions of the statute appear to be directed at this concern. See, for example, sections 706(c); 710(a)(4), (6), and (13); and 710(g). An examination of the legislative history of the statute reveals no evidence that sections 707(a) and 710(a)(10) were intended to preclude support for desegregation-related activities required by a court to be added to regular programs.

The reports of the congressional committees that considered the bills from which the Emergency School Aid Act evolved make the following points clear: (1) An important object of the legislation was to assist local educational agencies implementing court-ordered desegregation plans; (2) funds under the legislation were intended to be used in close connection with those plans; and (3) the committees never considered and rejected the use of funds for an otherwise authorized activity that had been included in a court order. See S. Rep. No. 92-61, 92d

Cong., 1st sess. (1971); H.R. Rep. No. 92-576, 92d Cong., 1st sess. (1971); S. Rep. No. 92-604, 92d Cong., 2d sess. (1972).

In view of the foregoing it is the Commissioner's interpretation that funds under the statute are available for an otherwise authorized desegregation-related activity that a court order requires the applicant local educational agency to conduct.

(20 U.S.C. 1601-1619)

(Catalog of Federal Domestic Assistance Numbers 13.525, Basic Grants; 13.526, Pilot Projects; 13.528, Bilingual Projects; 13.532, Special Projects; 13.589, Magnet Schools and University/Business Cooperation Grants; 13.590, Neutral Site Planning Grants—Emergency School Aid.)

Dated: July 12, 1978.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

Approved: July 20, 1978.

PETER D. RELIC,
Acting Assistant Secretary for Education.

[FR Doc. 78-20598 File 7-24-78; 8:45 am]

[4310-03]

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before July 14, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by August 4, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Lauderdale County

Florence, *Wood Avenue Historic District*, N. Wood Ave. roughly bounded by Tuscaloosa and Hawthorne Sts.

Mobile County

Mobile, *First National Bank*, 68 St. Francis St.

Montgomery County

Montgomery vicinity, *Harrington Archeological Site*, S of Montgomery.

FLORIDA

Escambia County

Pensacola, *American National Bank Building*, 226 S. Palafox St.

Leon County

Tallahassee, *Carnegie Library*, Florida A & M University compus.

Pinellas County

Clearwater, *South Ward School*, 610 S. Fort Harrison Ave.

Volusia County

DeLand, *Stetson, John B., House*, 1031 Comphor Lane.

GEORGIA

Fulton County

Atlanta, *North Avenue Presbyterian Church*, 607 Peachtree Ave., NE.

KENTUCKY

Fayette County

Lexington vicinity, *Shelby Family Houses of Fayettee County*, SE of Lexington on Richmond Rd., Shelby Lane, and Jacks Creek Pike.

Wahington County

Springfield vicinity, *Grundy Houses*, N of Springfield off KY 55.

Woodford County

Versailles vicinity, *Pisgah Pike Historic District*, NE of Versailles on Pisgah Rd.

LOUSISANA

St. Landry Parish

Washington, *Washington Historic District*, LA 182.

MARYLAND

Montgomery County

Rockville vicinity, *Third Addition to Rockville and Old St. Mary's Church*, E of Rockville at Veirs Mill and Old Baltimore Rds.

MINNESOTA

Cook County

Grand Marais, *Lightkeeper's House*, off U.S. 61.

Otter Tail County

Fergus Falls, *Wright, C. J., House*, 831 Mount Faith Ave. E.

St. Louis County

Chisholm vicinity, *Bruce Mine Headframe*, S of Chisholm.
Duluth, *Limnological Research Station*, 6008 London Rd.
Ely, *Pioneer Mine Buildings and Headframe*, Shagawa Lake.
Virginia, *Lincoln School Building*, 3rd Ave. and 1st St. N.

Stearns County

Collegeville, *St. John's Abbey and University*, off U.S. 52.

Wabasha County

Wabasha, *Hurd House, 333 W. Main St.*

NEVADA

Clark County

Las Vegas, *Las Vegas Mormon Fort*, 900 Las Vegas Blvd. N. (boundary increase).

NEW JERSEY

Hudson County

Jersey City, *Hamilton Park Historic District*, roughly bounded by Grove, Brunswick, 6th and 9th Sts.

NEW MEXICO

Bernalillo County

Albuquerque, *Huning Highlands Historic District*, bounded by Grand Ave., I 25, Hazeldine, and A.T. & S.F. Railroad tracks.

NEW YORK

Albany County

Albany, *Ten Broeck Historic District*, irregular pattern along Ten Broeck St. from Clinton to Livingston Aves.

PENNSYLVANIA

Lehigh County

Zionsville vicinity, *Dillingersville Union School and Church*, E of Zionsville.

Tioga County

Lawrenceville, *First Presbyterian Church*, 66 Main St.

RHODE ISLAND

Providence County

Woonsocket vicinity, *Union Village Historic District*, W of Woonsocket on RI 146A.

Washington County

North Kingstown, *Six Principle Baptist Church*, 85 Old Baptist Rd.

UTAH

Wasatch County

Heber City, *Austin-Wherritt House*, 315 E. Center St.

Washington County

New Harmony vicinity, *Fort Harmony Site*, E of New Harmony on I 15.

VERMONT

Chittenden County

Winooski, *Winooski Falls Mill District*, N bank of Winooski River to Center and Canal Sts., S bank to Bartlet St.

WEST VIRGINIA

Harrison County

Clarksburg, *Stealey-Goff-Vance House*, 123 W. Main St.

[FR Doc. 78-20152 Filed 7-24-78; 8:45 am]

[4310-02]

Office of the Secretary

[Order No. 3021]

ENFORCEMENT OF HOOPA INDIAN RESERVATION FISHING REGULATIONS

Sec. 1. *Delegation.* Special agents of the U.S. Fish and Wildlife Service and law enforcement officers of the National Park Service are hereby delegated the authority of the Secretary of the Interior to enforce the regulations appearing at Chapter I, Subpart W, Part 258 of Title 25, Code of Federal Regulations. This delegation is to be interpreted in the broadest sense, in order to insure that such agents and officers are secure in their persons and entitled to serve and execute necessary process as servants of the Court contemplated by those regulations.

Sec. 2. *Effective Date.* This order is effective immediately and will remain in effect until July 15, 1979, at which time it will terminate and be considered obsolete.

Dated: July 17, 1978.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc. 78-20516 Filed 7-24-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-56]

CERTAIN THERMOMETER SHEATH PACKAGES

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on June 7, 1978 under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Steridyne Corporation, 3670 East Industrial Way, Riveria Beach, Florida 33404. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain thermometer sheath packages into the United States, or in their sale, by reason of the alleged coverage of such articles by U.S. Letters Patents 3,552,555 and 3,847,280, and that such articles are being offered at prices below fair value and below cost. The complaint alleges that such unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests an order permanently excluding such articles from entry into the United States, and an order to cease and desist from selling or offering for sale such articles below their fair value.

Having considered the complaint, the United States International Trade Commission, on July 6, 1978, Ordered—

(1) That pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation of subsection (a) of this section in the unauthorized importation of certain thermometer sheath packages into the United States, or in their sale by reason of such thermometer sheath packages allegedly being covered by claims 1, 4, 5, 8, 9, 12, 13, 15, 16, 17, 18 and 19 of U.S. Letters Patent 3,552,558 and claims 1, 2 and 5 of U.S. Letters Patent 3,847,280, the effect of tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) Those portions of the complaint which allege a violation of section 337 by reason of the imported articles being offered for sale at prices "below fair value and below cost" are dismissed for the reason that they do not, as presently set forth, allege an unfair method of competition or unfair act within the meaning of section 337.[1]

(3) That, for the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is:

Steridyne Corporation,
3670 East Industrial Way,
Riveria Beach, Florida 33404.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and parties upon which the complaint and this notice are to be served.

(1) Astra-Sjuco, AB
Fack,
S-402 20 Goteborg 5,
Sweden.
(2) Medline Industries,
1825 Sherman Road,
Northbrook Illinois 60062.
(3) Caring International,
Division of Medline Industries,
P.O. Box 777,
Northbrook, Illinois 60062.

(c) Louis S. Mastriani, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigation attorney, a party to this investigation.

(4) That, for the purpose of the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Commission, 701 E Street NW., Washington, D.C. 20436, is hereby granted the power to designate the presiding officer.

Responses must be submitted by named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure, as amended (19 CFR 210.21). Pursuant to §§ 201.16(d) and 201.21(a) of the Rules such response will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complainant and of this notice, and will authorize the presiding office and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City Office of the Commission, 6 World Trade Center.

Issued: July 20, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-20607 Filed 7-24-78; 8:45 am]

[1] Commissioners Minchew and Alberger voted to dismiss those portions of the complaint that allege sales "below fair value and below cost" because they believe mere low pricing is not an unfair method or act, even if the prices are unreasonably low, below total cost or average total cost, or below "fair value" as complainant alleged. Low pricing is an unfair method or act when it occurs as a result of predatory intent, that is, an intent to destroy competition and dominate a market. This intent can be inferred, if low prices are present, from specific occurrences which have a commercial context that strongly suggest predation; and the Commission has held that, where prices of an imported article are set below marginal cost for a sustained period without commercial justification, intent can be inferred. However, in such a complaint the specifics of predatory intent should be pleaded. On the basis of this complaint, there is no possibility of such intent, since the complaint itself alleges that the low prices are for the purpose of getting "customers and dealers of complainant to switch from complainant's sheath package to the imported infringing product." This is hardly an anti-competitive, or predatory, motive.

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

UNITED STATES v. CARIBBEAN GULF REFINING CORP.

Stipulated Order in Action To Enforce Compliance With Terms of NPDES Permits

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed stipulated order in *United States* v. *Caribbean Gulf Refining Corporation* has been lodged with the U.S. District Court for the District of Puerto Rico. The order requires defendant to comply with the terms of its NPDES permit by August 1, 1978 and imposes a civil penalty for defendant's violations of its permit.

The Department of Justice will receive on or before August 24, 1978, written comments relating to the proposed stipulation and order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Caribbean Gulf Refining Corporation*, D.J. Ref. 90-5-1-1-995.

The stipulated order may be examined at the office of the U.S. Attorney, District of Puerto Rico, Old Post Office and Courthouse Building, Comercio Street, San Juan, Puerto Rico 00904, at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed stipulated order may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-20578 Filed 7-24-78; 8:45 am]

[4410-01]

UNITED STATES V. TRAP ROCK INDUSTRIES, INC.

Consent Judgment in Action To Enforce Compliance With Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent judgment in *United States* v. *Trap Rock Industries, Inc.*, has been filed with the U.S. District Court for the District of New Jersey. The judgment requires defendant to apply for an NPDES permit, establishes a compliance schedule for defendant to meet certain effluent limitations specified in the judgment, and imposes a civil penalty on defendant for past violations of the Clean Water Act.

The Department of Justice will receive on or before August 24, 1978, written comments relating to the consent judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Trap Rock Industries, Inc.*, D. J. Ref. 90-5-1-1-901.

The stipulation may be examined at the Office of the U.S. Attorney, District of New Jersey, Federal Building, 970 Broad Street, Newark, N.J. 07102; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007; and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-20579 Filed 7-24-78; 8:45 am]

[4410-18]

Law Enforcement Assistant Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Notice of Resolicitation

The National Institute of Law Enforcement and Criminal Justice announces the extension of the submission date for grant applications to conduct an evaluation of a program on a community-based prerelease model program.

The major objectives of the experiment are: (*a*) to test the feasibility of implementing the components of a county-based full-service program in several jurisdictions, by building upon existing facilities and programs; (*b*) to determine the cost effectiveness of this type of model program for the local criminal justice systems; and (*c*) to explore the impacts of such community-based (pre-release/work-release) centers on the clients, communities, and State and local criminal justice systems in their jurisdictions. In addition to studying the degree to which each of the program components achieves its objectives, as indicated above, the evaluation will also aim to validate the appropriateness of the model for potential implementation by other local correctional agencies, identify the modifications or adaptations for local community conditions which may be necessary under various circumstances to assure optimal chances of program success, and provide an overall analysis of this experimental effort.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than August 11, 1978. All grants are planned for award in October 1978, with funding support not to exceed $300,000 or 24 months in duration for individual grants. Because this is a research grant program, profitmaking organizations are prohibited by LEAS policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Jay Merrill, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3824.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-20523 Filed 7-24-78; 8:45 am]

[4510-29]
[4830-01]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Prohibited Transaction Exemption 78-10]

EXTENSION OF CLASS EXEMPTIONS FOR CERTAIN TRANSACTIONS INVOLVING EMPLOYEE BENEFIT PLANS AND BROKER-DEALERS

Prohibited Transaction Exemption

AGENCIES: Department of Labor and Department of the Treasury/Internal Revenue Service.

ACTION: Grant of extension of class exemption.

SUMMARY: This document contains a notice by the Department of Labor and the Internal Revenue Service (hereinafter referred to collectively as the Agencies) of the grant of an extension until February 1, 1979 of that portion of a previously granted class exemption which permitted securities broker-dealers, until May 1, 1978, to provide brokerage and incidental services, under certain circumstances, to employee benefit plans with respect to which they are fiduciaries. The Agencies are also granting a retroactive exemption with regard to transactions which have occurred since May 1, 1978. The exemption affects broker-dealers who provide services to employee benefit plans, and participants and beneficiaries of such plans.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Shapiro, Esq., Office of the Solicitor, Plan Benefits Security Division, Room C-4508, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-7931; or Ivan Strasfeld, Esq., Prohibited Transactions Staff, Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3045. These are not toll free numbers.

SUPPLEMENTAL INFORMATION: On May 5, 1978, notice was published in the FEDERAL REGISTER (43 FR 19481), that the Agencies had under consideration a proposed extension until December 1, 1978, of a class exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (ERISA) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the code) by reason of section 4975(c)(1) of the code. Specifically, the Agencies proposed an extension of paragraph I(a) of Prohibited Transaction Exemption 75-1; that portion of the exemption expired on May 1, 1978.[1] The pertinent portion of Prohibited Transaction Exemption 75-1 relates to certain securities transactions effected on behalf of employee benefit plans by persons who are fiduciaries of the plan. The extension of the class exemption was requested in an application filed by the Securities Industry Association (SIA). The Agencies have also received four applications for individual exemptions which might relate to this extensions.[2] To the extent that the transactions which are the subject of those applications are of the type described in this exemption, such transactions will be exempted if they satisfy the terms and conditions of this exemption.

In granting the pertinent portion of Exemption 75-1 in 1975, the Agencies determined that securities broker-dealers regularly provided research, information and advice concerning securities, and effected agency transactions for the purchase or sale of securities, in the ordinary course of their business as broker-dealers, and that the provision of a combination of such services by a fiduciary with regard to employee benefit plans would constitute prohibited transactions under ERISA and the code unless a statutory or administrative exemption was available. The Agencies took note that in the future most transactions by plan fiduciaries that would be covered by the relevant portion of Exemption 75-1 also would, in effect, be prohibited by section 11(a) of the Securities Exchange Act of 1934 (Exchange Act), as amended by Securities Exchange Act Amendments Act of 1975 (Pub. L. 94-29, 89 Stat. 110). That section prohibits any member of a national securities exchange from effecting any transaction on such exchange for an account with respect to which it or an associated person thereof exercises investment discretion.

The Agencies noted also that section 11(a) of the Exchange Act provided an exception from the prohibition described above until May 1, 1978 for members of a national securities exchange who were members on May 1, 1975. The Conference Report relating to the Securities Acts Amendments of 1975 (H.R. Rep. No. 94-229, 94th Cong., 1st sess. (1975)) had indicated, at page 107, that it was the view of the conferees that the Agencies should grant an exemption from the prohibited transaction provisions of the act and the code to permit broker-dealers to continue to provide brokerage services to plans with respect to which they exercised investment discretion until May 1, 1978, in order to conform the pertinent provisions of ERISA and the code to section 11(a) of the Exchange Act and thereby permit broker-dealers to phase out, in an orderly fashion, the business of both serving as investment advisers to plans and providing brokerage services to such plans.[3]

Therefore, with respect to a person who was a plan fiduciary, Prohibited Transaction Exemption 75-1 provided, in part, an exemption for effecting securities transactions on behalf of employee benefit plans and for functions performed incidental to the effecting of such transactions. The pertinent part of the exemption was available whether or not the transaction was effected on a national securities exchange, but it applied only to persons effecting securities transactions on May 1, 1975 and it was available only until May 1, 1978. The availability of Prohibited Transaction Exemption 75-1 was also subject to certain other conditions.

In publishing the notice of the proposed extension of paragraph I(a) of Prohibited Transaction Exemption 75-1, the Agencies took note of, among other things, the fact that both houses of Congress had at that time passed bills which would postpone the full effectiveness of section 11(a) of the Exchange Act beyond May 1, 1978, although no such legislation had yet been enacted into law. The SIA had suggested that, in view of these and other developments, the Agencies should reconsider their earlier determination that the transactions described above should not be permitted after May 1, 1978.

The extension of the exemption was proposed in accordance with the procedure set forth in ERISA Procedures 75-1 (41 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. Interested persons were invited to submit comments on the proposed extension and the Agencies held a public hearing on the matter on June 12, 1978. Almost all of the persons filing written comments and appearing at the public hearing supported an extension of the pertinent portion of Prohibited Transaction Exemption 75-1.[4]

Commentators pointed out that, subsequent to issuance of notice of the proposed extension, Congress had passed and the President had signed a bill which amended section 11(a) of the Exchange Act to delay the full effectiveness of that section for nine months, from May 1, 1978, to February 1, 1979.[5] It was argued that Congress, in enacting this amendment, had recognized that the relief afforded by the legislation would be available with respect to transactions effected for employee benefit plans only if the Agencies extended the exemption, and that Congress had expressed its expectation that the Agencies would provide such relief.[6] It was also argued that, if the prohibited transaction provisions of ERISA prevented broker-dealers who managed plan accounts from effecting transactions for the plans while at the same time the amended section 11(a) of the Exchange Act permitted those broker-dealers to effect transactions for other types of accounts which they managed, there might be instances where it would be impossible for the broker-dealers to arrange purchases or sales of particular stocks for the plans at prices as favorable as those paid or received by the other accounts.

Similarly, the House Committee stated: "The Committee believes that the continuation of [Exemption 75-1] * * * would foster the objectives of this bill and would be consistent with the desire of the Congress that, to the maximum degree consistent with the

[1] Prohibited Transaction Exemption 75-1 was published in the FEDERAL REGISTER on October 31, 1975 (40 FR 50845).

[2] Exemption Applications Nos. D-724, D-862, D-888, and D-981.

[3] See also Conference Report on ERISA, H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 309-10(1974).

[4] Most of the persons filing comments, and all of those appearing at the hearing, were broker-dealers or representatives of broker-dealers.

[5] Pub. L. 95-283, 95th Cong. 2d Sess. (1978).

[6] In its report accompanying the bill, the Senate Committee stated: "In order to avoid confusion and undue disruption respecting securities transactions involving employee benefit plans subject to [ERISA], the Committee expects that [the Agencies] will act expeditiously to extend * * * [Prohibited Transaction Exemption 75-1]. S. Rep. No. 95-763, 95th Cong. 2d sess. 5-6 (1978)."

policies of ERISA [the Agencies] conform those ERISA prohibitions applicable to securities firms and municipal securities dealers to the provisions and policies of the Exchange Act. H. Rep. No. 95-1010, 95th Cong. 2d Sess. 5 (1978)."

Additionally, in urging that the proposed extension be granted, many commentators contended that failure to adopt the extension would create disruption in existing arrangements for plans without any demonstrable benefit or protection for the plans.

The only commentator objecting to the proposed extension was the American Council of Life Insurance (ACLI). The ACLI suggested that the provision of both investment management and brokerage services by broker-dealers to plan accounts results in an unacceptable conflict of interest which is contrary to the intent of ERISA. Furthermore, the ACLI asserted that broker-dealers have had sufficient notice that the exemption would expire to enable them to make other arrangements regarding the multiple services previously performed for ERISA accounts.

After consideration of the written comments and the views presented at the hearing, the Agencies have decided that it would be appropriate to extend the pertinent portion of Prohibited Transaction Exemption 75-1 until the amended section 11(a) of the Exchange Act becomes fully effective on February 1, 1979. The Agencies have also determined to make the exemption retroactive to May 1, 1978. In adopting the original exemption until May 1, 1978, the Agencies noted that, in enacting ERISA, Congress had expressed its expectation that the Agencies would act consistently with any action taken by Congress in connection with the general issue of institutional investment management by brokers which was then under consideration.[7] The Agencies' decision to adopt the original exemption was based largely upon this expression of congressional intent, coupled with a similar indication of congressional intent when Congress passed section 11(a) the following year.[8] Similar considerations militate in favor of the extension now being granted until February 1, 1979.[9]

[7] See Conference Report on ERISA, note 3, supra.

[8] See H.R. Rep. No. 94-229, 94th Cong., 1st Sess. 107 (1975).

[9] As noted earlier, the Agencies proposed to extend the exemption only until December 1, 1978. However, subsequent to publication of notice of the proposed extension, the legislation postponing the full effectiveness of section 11(a) until February 1, 1979 was enacted. For the reasons discussed above, the Agencies believe that the expiration date of the exemption being granted herein should be the same as the corresponding date under section 11(a) as amended. On the other hand, the exemption being adopted herein, like the original one adopted in 1975, will be available with respect only to broker-dealers who were performing the described functions on behalf of a plan on May 1, 1975. This provision of the previous exemption corresponded to a provision of the original section 11(a) which limited the availability of the transitional relief provided in that section to broker-dealers who were members of a national securities exchange on May 1, 1975. Although this "grandfather" date was changed to February 1, 1978 in the amended section 11(a), the Agencies believe that it is appropriate to retain the original "grandfather" date of May 1, 1975 in the exemption. This is because, under the terms of the previous exemption, a broker-dealer who was not performing the described functions on May 1, 1975 on behalf of a plan could not, in the absence of an exemption, have performed such functions on behalf of a plan after that date without engaging in a prohibited transaction.

The Agencies note that certain commentators, in their submissions concerning the proposed exemption, suggested that the Agencies should revise their regulations concerning the definition of fiduciary under ERISA and the Code.[10] Specifically, it has been suggested that the Agencies should take the position that a person who is an investment advisor to a plan is not, merely for that reason, a plan fiduciary if prior authoriztion for each transaction effected for the plan must be obtained from some other person. It is argued that, if such a definition of fiduciary were adopted, a broker-dealer which was a plan's investment adviser would be able to effect securities transactions for the plan without relying upon the class exemption being granted herein provided that each such transaction was approved in advance by another person who was a plan fiduciary, since in such cases the adviser would not be a fiduciary.[11]

The agencies believe that such a definition of fiduciary would be inconsistent with section 3(21)(A)(ii) of ERISA and section 4975(e)(3)(B) of the Code, relating to persons who are fiduciaries by reason of providing investment advice to plans. Nonetheless, the agencies point out that a broker-dealer which provides investment advice to a plan and is therefore a fiduciary may, under certain circumstances, be able to effect brokerage transactions for the plan without relying upon the class exemption, provided that he/she obtains prior authorization from another plan fiduciary before effecting any such transaction. This is because, as the agencies have previously explained,[12] the regulations under section 408(b)(2) of ERISA and section 4975(d)(2) of the Code[13] provide, in effect, that a fiduciary does not engage in a transaction prohibited by section 406(b)(1) of ERISA and section 4975(c)(1)(E) of the Code if the fiduciary does not use any of the authority, control, or responsibility which makes such person a fiduciary to cause a plan to pay additional fees for a service furnished by such fiduciary.

A broker-dealer-fiduciary would not be using any of the authority, control, or responsibility which makes such person a fiduciary to cause the plan to retain him/her to effect a brokerage transaction for the plan, even if such fiduciary offered his/her services to effect the transaction for the plan, if he/she effected such a transaction only after receiving approval for the transaction from a second fiduciary who had no interest in the matter which might affect his/her best judgment as a fiduciary, and who was in possession of sufficient information to enable a reasonable plan fiduciary to reach an independent judgment as to whether the broker-dealer should effect the transaction.

The approving fiduciary, in order to make an independent judgment concerning which broker-dealer should be selected to effect a transaction, would have to possess information as to the size and complexity of the transaction, as well as any other factors which might affect such a selection, including the amount of the brokerage commission to be charged on the transaction and information relating to the reasonableness of that commission in relation to the value of the brokerage services and any research services being provided, and in relation to what other brokers would be expected to charge for similar services.[14]

It should be emphasized that where a broker-dealer acts as an investment adviser in recommending securities transactions and a second fiduciary decides whether each such transaction should be entered into, both the broker-dealer and the approving fiduciary are under an obligation to comply with the general fiduciary responsibility requirements of section

[10] 29 CFR 2510.3-21 and section 54.4975-9 of the Pension Excise Tax Regulations.

[11] Morever, if such a definition of fiduciary were adopted, a person would be a fiduciary by reason of being an investment adviser only where he exercised investment discretion as that term is defined by the Securities and Exchange Commission under section 3(a)(35) of the Exchange Act. See Securities Exchange Act Release No. 14563 (March 4, 1978), 43 FR 11542.

[12] See notice of proposed exemption, 43 FR 19481, note 4.

[13] 29 CFR 2550.408b-2 and 26 CFR 54.4975-6.

[14] Also, if the transaction is to be executed by another broker, the approving fiduciary would have to be given information as to the portion of the brokerage commission to be given to the executing broker and the portion to be retained by the investment adviser/broker for his/her services in effecting the transaction.

404 of ERISA regarding the appropriateness of each such transaction.[15]

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of ERISA, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which, among other things, require a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of ERISA.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of ERISA, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(4) In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of May 5, 1978, and the hearing held on June 12, 1978, the agencies make the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of plans.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

Accordingly, the following exemption is hereby granted under authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722:

Effective May 1, 1978, the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code, shall not apply until February 1, 1979, to the effecting of any securities transaction of behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan, acting in such transaction as agent for the plan, and to the performance by such person of clearance, settlement, or custodial functions incidental to effecting such transaction, if such person ordinarily and customarily effected such securities transactions and performed such functions on May 1, 1975.

Signed at Washington, D.C. this 19th day of June 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

T. R. KERN,
Deputy Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

[FR Doc. 78-20623 Filed 7-21-78; 10:17 am]

[15]The broker-dealer would be a fiduciary, and thus subject to the requirements of section 404, by reason of providing investment advice within the meaning of section 3(21)(A)(ii) of ERISA and section 4975(E)(3)(B) of the Code. However, since he would not have the power to manage, acquire, or dispose of plan assets without the approval of the second fiduciary, he would not be an investment manager as that term is defined in section 3(38) of ERISA. Therefore, the fact that the broker-dealer was acting as a fiduciary in making his recommendations would not excuse the second fiduciary from also meeting the requirements of section 404 in deciding whether those recommendations should be followed.

[4510-28]

Office of the Secretary

[TQ-W-1611 and 1612]

COLEMAN PRODUCTS CO., COLEMAN, WIS., IRON RIVER, MICH.

Revised Determination on Reconsideration Regarding Eligibility To Apply for Worker Adjustment Assistance: Correction

In FEDERAL REGISTER Doc. 78-19055 appearing on page 29847 in the FEDERAL REGISTER of July 11, 1978, the first sentence in the third paragraph should be corrected to read as follows:

The petitioner, on behalf of workers and former workers of Coleman Products Company, requested administrative reconsideration of TA-W-1611 and 1612.

In the fourth paragraph, line 8, "the UAW" should be corrected to read "an official of the Coleman Products Company."

Signed at Washington, D.C., this 18th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-20581 Filed 7-24-78; 8:45 am]

[4510-28]

[TA-W-1606 and 1607]

EVART PRODUCTS CO., EVART, MICH.

Revised Determination on Reconsideration Regarding Eligibility To Apply for Worker Adjustment Assistance: Correction

In FEDERAL REGISTER Doc. 78-19061 appearing on pages 29850-29851 in the FEDERAL REGISTER of July 11, 1978, the first sentence in the third paragraph should be corrected to read as follows:

The petitioner, on behalf of workers and former workers of Evart Products Company, requested administrative reconsideration of TA-W-1606 and 1607.

In the fourth paragraph, line 8, "the UAW" should be corrected to read "an official of the Evart Products Company" and line 10, "Evart, Wisconsin," should be corrected to read "Evart, Michigan."

In the fifth paragraph, line 25 (page 29851), "Evart, Wisconsin," should be corrected to read "Evart, Michigan."

Signed at Washington, D.C., this 18th day of July 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-20580 Filed 7-24-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Officer of Trade Adjustment Assistance, at the address shown below not later than.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 4, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of July 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cole Industries—Crucible Steel—Trent Tube Division (USWA).	Carrollton, Ga	July 6, 1978	June 28, 1978	TA-W-3,958	Stainless steel tube large diameter.
Consolidated Aluminum Corp. (workers).	Benton, Ky	July 10, 1978	June 27, 1978	TA-W-3,959	Aluminum chairs, red wood picnic tables, tea carts, aluminum signs.
Ellen Kate Clothing Co. (ILGWU)	Newburgh, N.Y	July 5, 1978	June 8, 1978	TA-W-3,960	Ladies' rainwear.
Erie Technological Products, Inc. (IUE).	Erie, Pa	July 6, 1978	June 23, 1978	TA-W-3,961	Electronic component parts.
Hepsun Sportswear (ILGWU)	New York, N.Y	June 25, 1978	June 22, 1978	TA-W-3,963	Slacks and some skirts.
K.A.L. Fashions (ILGWU)	New York, N.Y	do	do	TA-W-3,963	Cotton slacks and some skirts.
Lisa Marie Sportswear, Inc. (company).	Phillipsburg, N.J	July 5, 1978	June 26, 1978	TA-W-3,964	Women's lined and unlined blazers.
Nelly Don, Inc. (ILGWU)	North Kansas City, Mo	do	June 28, 1978	TA-W-3,965	Ladies' dresses and sportswear.
Szabo Food Service of New York, Inc. (workers).	South Windsor, Conn	do	do	TA-W-3,966	Prepare and serve food in the cafeteria located at Uniroyal Footwear, Naugatuck, Conn.

[FR Doc 78-20273 Filed 7-24-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COUNCIL TASK GROUP NO. 1

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group No. 1 of the NSF Advisory Council.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date: Thursday, August 10, and Friday, August 11, 1978.

Time: 9 a.m. to 5 p.m. (both days).

Type of meeting: Open.

Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550, telephone 202-632-4368.

Purpose of task group: The purpose of the task group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, National Science Foundation, Room 248, 1800 G Street NW., Washington, D.C. 20550.

Agenda: To consider the problems or potential problems of the coming decade that may threaten the viability of universities as centers for basic research, what present NSF programs are likely to have an impact on these problems, and what new programs or changes in existing NSF programs might be desirable to assist universities in overcoming these problems.

Dated: July 20, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-20543 Filed 7-24-78; 8:45 am]

[7555-01]

EXECUTIVE COMMITTEE OF THE ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Executive Committee of the Advisory Committee for Environmental Biology.

Date and time: July 20 and 21, 1978, 8:30 a.m. to 5:30 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, July 20, Room 338; July 21, Room 321.

Type of meeting: Closed.

Contact person: Dr. John L. Brooks, Deputy Division Director, Environmental Biology, Room 336, National Science Foundation, Washington, D.C. 20550, 202-632-7318.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in ecosystem studies.

Agenda: To review and evaluate internal records leading to an overview and appraisal of administrative performance in the Ecosystem Studies Program.

Reason for closing: The data being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, in accordance with provisions of section 10(d) of Pub. L. 92-463.

Reason for delayed announcement: The delayed announcement was occasioned in part by scheduling difficulties in arranging the meeting.

Dated: July 20, 1978.

M. REBECCA WINKLER,
Committee Management, Coordinator.

[FR Doc. 78-20542 Filed 7-24-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369, 50-370]

DUKE POWER CO. (WILLIAM B. MCGUIRE NUCLEAR STATION, UNITS 1 AND 2)

Resumption of Public Hearing, July 19, 1978

Please take notice that the evidentiary hearing being held before this Atomic Safety and Licensing Board concerning the William B. McGuire Nuclear Station, Units 1 and 2, will resume on Tuesday, August 22, 1978, at 10 a.m., local time, at: Commissioner's Meeting Room, fourth Floor, Mecklenburg County Administration Building, 720 East Fourth Street, Charlotte, N.C. 28202.

Pursuant to notices published in the FEDERAL REGISTER on October 7, 1974 (39 FR 36037), and March 17, 1977 (42 FR 14940), a public hearing has been ordered in this proceeding to consider the issuance, denial or appropriate conditioning of facility operating licenses which would authorize Duke Power Co. to possess, use, and operate the William B. McGuire Nuclear Station, Units 1 and 2, which is located on the shore of Lake Norman in Mecklenburg County, N.C., approximately 17 miles north-northwest of Charlotte, NC. Construction of the facility was authorized by construction permit Nos. CPPR-83 and CPPR-84, both issued on February 28, 1973.

Evidence concerning environmental issues was presented by the parties during public hearing sessions held in March and April 1977 in Charlotte, N.C. The hearing is being reconvened to permit the presentation of evidence on the public health and safety aspects of this proceeding as well as any environmental issues which may remain open at the time of the hearing.

All persons who have requested permission to make a limited appearance will be afforded an opportunity to state their views or to file a written statement on the first day of this hearing session or at such other times as the Licensing Board may for good cause designate.

Members of the public are welcome to attend.

It is so ordered.

Dated at Bethesda, Md., this 19th day of July 1978.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc. 78-20526 Filed 7-24-78; 8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to provide for a maximum total peaking factor of 2.48 for 8x8R fuel.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 27, 1978, (2) Amendment No. 58 to License No. DPR-57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of July 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO, CHIEF,
Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-20527 Filed 7-24-78; 8:45 am]

[7590-01]

[Dockets Nos. 50-275 OL, 50-323 OL]

PACIFIC GAS AND ELECTRIC CO.

Order Relative to Conference of Counsel

In a conference call on Friday, July 14, 1978, which was initiated by the Board to discuss the status of several pending motions, counsel for Intervenors requested a revision of the schedule for the proceeding and Applicant's counsel requested an expedited procedure for the issuance of subpoenas for the purpose of taking depositions.

After considerable discussion, the Board suggested that it would be more appropriate to continue the argument in person. All parties agreed and are not scheduled to meet at 9 a.m., on July 27, 1978. Since counsel for the Intervenors, the NRC Staff and the majority of the Board are located in the Washington area, it was agreed that the meeting would be in Room 415, East-West Towers, 4350 East-West Highway, Bethesda, Md.

This is an open meeting.

It is so ordered.

Dated Bethesda, Md., this 19th day of July 1978.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc. 78-20828 Filed 7-24-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-546, 50-547]

PUBLIC SERVICE CO. INDIANA, INC.

Notice of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's orders of July 5 and 13, 1978, oral argument on issues raised by exceptions to the April 4, 1978, initial decision which touch upon the application of the Federal Water Pollution Control Act to this case will be held at 10 a.m., Tuesday, August 15, 1978, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

Dated: July 17, 1978.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-20529 Filed 7-24-78; 8:45 am]

[7590-01]

[Docket No. 50-280]

VIRGINIA ELECTRIC & POWER CO.

Exemption

I

Virginia Electric & Power Co. (the licensee), is the holder of Facility Operating License No. DPR-32 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 1 (the facility) at steady reactor power levels not in excess of 2441 megawatts thermal (rated power). The facility consists of a Westinghouse Electric Corp. designed pressurized water reactor (PWR) located at the licensee's site in Surry County, Va.

II

In accordance with the requirements of the Commission's ECCS Acceptance Criteria 10 CFR 50.46, the licensee submitted on August 9, 1977 as supplemented on August 26, October 19, and November 16, 1977, an ECCS evaluation for proposed operation using 15 x 15 fuel manufactured by the Westinghouse Electric Corp. This evaluation included limits on the peaking factor. The ECCS performance evaluation submitted by the licensee was based upon an ECCS evaluation developed by the Westinghouse Electric Corp. (Westinghouse), the designer of the Nuclear Steam Supply System for this facility. The Westinghouse ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46 and Appendix K. The evaluation indicated that with the peaking factor limit as set forth in the evaluation, and with other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On March 23, 1978 Westinghouse informed the Nuclear Regulatory Commission (NRC) that an error had been discovered in the fuel rod heat balance equation involving the incorrect use of only half of the volumetric heat generation due to metal-water reaction in calculating the cladding temperature. Thus, the LOCA analyses previously submitted to the Commission by licensees of Westinghouse reactors were in error. The staff promptly determined that no immediate action was required to assure safe operation of these plants.

The error identified would result in an increase in calculated peak clad temperature, which, for some plants, could result in calculated temperatures in excess of 2,200° F unless the allowable peaking factor was reduced somewhat. Westinghouse identified a number of other areas in the approved model which Westinghouse indicated contained sufficient conservatism to offset the calculated increase in peak clad temperature resulting from the correction of the error noted above. Four of these areas were generic, applicable to all plants, and a number of others were plant-specific. As outlined in the attached Safety Evaluation Report (SER), the staff determined that some of these modifications would be appropriate to offset to some extent the penalty resulting from correction of the error.

Revised computer calculations correcting the error, noted above, and incorporating the model modifications and plant-specific input modifications described in the SER have been run for Surry. Since some of these model modifications have not been approved by the staff, the licensee adjusted the results in a conservative fashion using the various parametric studies that have been made for various aspects of the approved Westinghouse model over the course of time, these studies provide a reasonable basis for concluding that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that with the peaking factors set forth in the SER operation will conform to the criteria of 10 CFR 50.46(b). Such revised calculations fully conforming to 10 CFR 50.46 are to be provided for the facility as soon as possible.

Since the staff has not completed its review of all aspects of the model used in making these computer calculations submitted by the licensse, the staff cannot determine that the evaluation is wholly in conformance with the requirements of 10 CFR 50.46(a). However, operation as proposed in the licensee's submittal of May 26, 1978, at the peaking factor limit specified in the Exemption will assure that the ECCS system will conform to the performance criteria of 50.46. Accordingly, while the full compliance with 10 CFR 50.46 operation of the facility will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with operation of the facility during the period until the computer computations are completed, there appears to be no public interest consideration favoring restriction of the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is appropriate. This exemption will be terminated by the staff upon completion of its review of the evaluation model used by the licensee.

III

Copies of the Safety Evaluation and the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Swem Library, College of William and Mary, Williamsburg, Va.

(1) Letter from Westinghouse to NRC dated April 7, 1978.

(2) Letters from Virginia Electric & Power Co., dated April 7, 1978, and May 26, 1978.

(3) This Exemption in the matter of Surry Power Station, Unit No. 1.

IV

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR Part 50, the licensee is hereby granted an exemption from the requirements of 10 CFR 50.46(a)(1) that ECCS performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in appendix K, without errors discussed herein. This exemption is conditioned as follows:

(1) Until further authorization by the Commission, the Technical Specification limit for total nuclear peaking factor (F_Q) for the facility shall be limited to 1.94.

(2) Minimum accumulator water volume shall be decreased to 975 ft^3 as specified in the May 26, 1978 letter from VEPCO.

Dated at Bethesda, Md., this 30th day of June 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-20530 Filed 7-24-78; 8:45 am]

[7590-01]

Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC & POWER CO.

Notice of Issuance of Amendments to Facility Operating Licenses and Specific Exemption to 10 CFR 50.46(a)(1) for Surry Unit No. 1

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 42 and 41 to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric & Power Co. (the licensee), which revised Technical Specifications common to the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Va. and has granted a specific exemption to 10 CFR 50.46(a)(1) for Surry Unit No. 1. The amendments and exemptions are effective as of the date of issuance.

The amendments consist of Technical Specification changes required for Cycle 5 operation of Surry Unit No. 1.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The exemption to 10 CFR 50.46(a)(1) is limited to the time period necessary to complete computer calculations acceptable to the NRC staff, that correct for errors in the Westinghouse ECCS models. The NRC has determined that this exemption is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest.

For further details with respect to these actions see (1) application for amendments dated March 15, 1978, as supplemented May 11, 1978, (2) Amendment Nos. 42 and 41 to License Nos. DPR-32 and DPR-37, (3) Specific Exemptions to 10 CFR 50.46(a)(1) dated June 30, 1978, and (4) the Commission's Public Document Room 1717 H Street NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Va. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. June 30, 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc 78-20531 Filed 7-29-78; 8: 45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.68.2, Revision 1, "Initial Startup Test Program to Demonstrate Remote Shutdown Capability for Water-Cooled Nuclear Power Plants," amplifies the guidance provided in Revision 1 to Regulatory Guide 1.68, "Initial Test Programs for Water-Cooled Reactor Powerplants," which was issued for comment in January 1977. Regulatory Guide 1.68, Revision 1, is the generic guide that describes the scope and depth of initial test programs, and Regulatory Guide 1.68.2, Revision 1, is one of a series of separate, more specific guides that provide detailed guidance in the conduct of initial test programs for particular systems. Regulatory Guide 1.68.2, Revision 1, describes an initial test program acceptable to the NRC staff for demonstrating hot standby capability and the potential for cold shutdown from outside the control room. It applies to water-cooled nuclear powerplants. This guide was revised as the result of public comment and additional review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 17th day of July 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-20532 Filed 7-24-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 2.4.13, Groundwater, of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communications and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Powerplants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 2.4.13 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C., 20555.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 29 day of June, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-20533 Filed 7-24-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 19, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (medicaid), Quarterly Report on Abortions Funded Under Title XIX, HCFA-58, quarterly, 216 State medicaid (title XIX) agencies, Richard Eisinger, Reese B. F., 395-3214.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census, School Enrollment Report, P-3, annually, officials of selected school systems, 60 responses, 30 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Health Professions and Nursing Student Loan Repayment program, on occasion, practicing health professions and nurses as well as lending institutions, 47,000 responses, 14,250 hours, Richard Eisinger, 395-3214.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Survey for the Collection of Racial and Ethnic data of Persons Applying for Federal Employment, CSC 1289, on occasion, selected applicants for Federal employment, 250,000 responses, 8,333 hours, LaVerne V. Collins, 395-3214.

VETERANS ADMINISTRATION

Philippine Claims (to secure information concerning loyalty and service to the United States), 21-4169, on occasion, veteran claimant, 2,500 responses, 1,250 hours, Caywood, D. P., 395-3443.

GENERAL SERVICES ADMINISTRATION

Surplus Personal Property Mailing List Application, GSA-2170, on occasion, general public, 50,000 responses, 8,332 hours, Caywood, D. P., 395-3443.

VETERANS ADMINISTRATION

Application for Reimbursement From Accrued Amounts Due a Deceased Beneficiary, 21-601, on occasion, claimant, 2,400 responses, 8,000 hours, Caywood, D. P., 395-3443.

U.S. CIVIL SERVICE COMMISSION

Personnel Research Questionnaire 78-5, CSC 1334 (temporary), single time, selected applicants for Federal employment, 5,000 responses, 417 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF DEFENSE

Departmental and Other Payment Bond for Other Than Construction Contracts, DD 1673, on occasion, business firms contracting with DOD, 400 responses, 100 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-20629 Filed 7-24-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

LIST OF REQUESTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 18, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Producers' Questionnaire (Portland cement), single time, 60 producers Caywood, D. P. 395-3443.

ACTION

Action Attitude and Awareness Survey, single time, 2400 2,000 M's and F's over 18 plus 200 college students, Reese B. F. 395-3211.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Passenger Attitudes Toward and Knowledge of Safety, FAA 8,000-35 OT, single time, 250 general pub. mem. who made 1 commercial flight in 5 years. Office of Federal Statistical Policy and Standard, 673-7956.

NEW FORMS

Federal Highway Administration, External Youth Opportunity program, FHWA-1469, annually, 52 State highway agencies, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Shrimp Log Book Form, NOAA 88-24, monthly, U.S. owned shrimp companies in South America, 1,680 responses, 2,806 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Social Services Reporting Requirements, quarterly, State title XX agencies, 51 responses, 8,364 hours, Human Resources Division, Reese B. F., 395-3522.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-20600 Filed 7-24-78; 8:45 am]

[3110-01]

DISSEMINATION OF TECHNICAL INFORMATION

Request for Comment

AGENCY: Office of Management and Budget.

ACTION: Request for public comment.

SUMMARY: The Office of Management and Budget is seeking public comments on a proposed Federal policy regarding the dissemination of scientific and technical information which results from Federal funds. The proposed policy would: (1) Establish that scientific and technical information which results from Federal funds shall, to the extent possible, be made available to the public, (2) require agencies to select that method for disseminating scientific and technical information which js in the best interests of both the agency and the Government; (3) require, with certain exceptions, that scientific and technical information be made available on a

full-cost recovery basis; and (4) require the National Technical Information Service, Department of Commerce, to maintain a central index of scientific and technical information which is available from the Federal Government.

DATE: Comments should be received by August 18, 1978.

ADDRESS: Comments should be submitted to the Office of Management and Budget, Information Systems Policy Division, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Kenneth B. Allen, Information Systems Policy Division, Office of Management and Budget, Washington, D.C. 20503, 202-395-3785.

SUPPLEMENTRY INFORMATION: Proposed Policy (insert policy).

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[Bulletin No. 78—Draft June 30, 1978]

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: DISSEMINATION OF TECHNICAL INFORMATION

1. *Background.* Each year Federal agencies spend a significant amount of resources to support and undertake research and development programs. Through its involvement in these activities, the Federal Government acquires a large volume of technical information, much of which could be used to support activities in the public and private sectors beyond the immediate mission of the sponsoring Federal agency. Currently, no single organization is responsible for coordinating the dissemination of technical information published by or for the Federal Government. As a result, individuals and organizations who are interested in finding out what technical information is available from the Federal Government must contact a number of different sources.

Many Federal agencies utilize the National Technical Information Service (NTIS) of the Department of Commerce, which is a clearinghouse for the collection and dissemination of scientific, technical and engineering information (see 15 U.S.C. 1151-1157). Pursuant to this statute, NTIS has an ongoing program to make copies of reports available to the public, publish indexes and announcements on available reports and maintain a publicly accessible computerized bibliographic file covering reports and other documents prepared or sponsored by many different Federal departments and agencies. NTIS has cooperative agreements with hundreds of government organizations to make their technical information available to the public and normally does so at little or no cost to the contributing agency. Income from the sale of technical information products and services is used to support the NTIS operation.

2. *Purpose.* The purpose of this Bulletin is to establish Federal policies for disseminating technical information which results from federally funded research and development activities and to prescribe executive department and agency responsibilities for disseminating such information.

3. *Scope.* The policies and responsibilities established by this bulletin apply to all technical information which results from federally funded research and development activities and which would be required to be disclosed under the Freedom of Information Act (5 U.S.C. 552). The policies and responsibilities established by this bulletin are applicable to all technical information, as defined in paragraph 4.

4. *Definition.* For the purposes of this bulletin, "technical information" is defined as all technical, scientific, business and industrial information which results from federally funded research and development activities sponsored or supported by an executive department, agency or establishment; which may be of some direct or indirect benefit to the private sector and which is subject to public disclosure in accordance with paragraph 3 of this bulletin. Typically, such information will be in the form of interim or final reports.

This definition does not include administrative and budgetary information; legal briefs, correspondence; public notices; internal agency operating procedures; agency memoranda or records; patents and trademarks; nautical/aeronautical charts; and similar information.

5. *Policy.* It is the policy of the U.S. Government that all technical information which results from federally funded research and development shall be made publicly available, consistent with the need to protect individual privacy, national security and proprietary interests. More specifically the following policies are hereby established:

Each department and agency shall determine the appropriate method for disseminating the technical reports and studies it prepares or sponsors.

The National Technical Information Service, Department of Commerce, shall maintain a file of all federally funded technical information which is available from executive departments and agencies or other sources.

All technical information which is made available by the Federal Government shall be priced to recover the full costs of printing, publicizing and disseminating such information, unless otherwise required by statute or demonstrated not to be in the national interests.

Consistent with the provisions of OMB Circular No. A-76, the Federal Government shall rely upon the private enterprise system to publish and disseminate technical information, except where it is in the national interest to do otherwise.

6. *Agency Responsibilities.* Each executive department and agency shall take appropriate steps to insure that technical information which results from research and development activities it undertakes or sponsors is made available to business and industry, other agencies of the Federal Government, State and local government, universities and research centers, and the general public. In carrying out this responsibility, agencies are encouraged to use the facilities of the National Technical Information Service (NTIS) of the Department of Commerce for the purpose of printing, publicizing and disseminating technical reports. Each department and agency shall:

a. Select that method of disseminating technical information which is in the best interest of both the agency and the Federal Government. Decisions regarding the appropriate method shall, unless otherwise required by law, be made on the basis of mission need, cost and Federal policy.

b. Evaluate its existing methods of disseminating technical information to assure that they are in the best interests of the agency and the Government. The criteria to be used for such evaluations shall be the same as that identified in 6(a) above.

c. Submit a bibliographic description of each technical report it prepares or sponsors to the NTIS and identify where and how each report can be obtained.

d. Issue such regulations and procedures as are necessary to carry out these responsibilities.

7. *National Technical Information Service Responsibilities.* The NTIS of the Department of Commerce shall:

a. Maintain and make public an index of all technical reports available from the Federal Government. This index should, at a minimum, briefly describe the contents of each report and identify where and how it can be obtained.

b. Publish and make available to the public each technical report which it receives from Federal departments and agencies.

c. Make technical reports available on a full cost recovery basis.

d. Annually publish in the FEDERAL REGISTER the cost allocation formula used to set prices on documents available through the NTIS.

e. Issue such guidance as is necessary to carry out these responsibilities.

f. Comply with the printing and binding regulations of the Joint Committee on Printing, U.S. Congress.

8. *Effective Date.* The requirements set forth in this bulletin are effectuve 90 days from the date issued.

9. *Further Information.* For further information on the policies and responsibilities outlined in this Bulletin, please contact the Information Systems Policy Division, Office of Management and Budget, Washington, D.C. 20503, 202-395-3785.

JAMES T. MCINTYRE, Jr.,
Director.

[FR Doc. 78-20601 Filed 7-24-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/79]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on August 9, 1978, at 10 a.m. in room 1406 of the Department of State, 2201 C Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The study group will discuss international telecommunications questions

relating to telegraph, telex, data, videotex and leased channel services in order to develop U.S. positions to be taken at an international CCITT Study Group III meeting to be held in the fall of 1978 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to August 9, 1978, members of the general public who plan to attend the meeting inform Mr. Arthur L. Freeman, Office of International Communications Policy, Department of State, telephone 202-632-1007, of their intention. All non-Government attendees must used the C Street entrance to the building.

Dated: July 17, 1978.

RICHARD E. SHRUM,
Acting Director, Office of International, Communications Policy.

[FR Doc. 78-20575 Filed 7-24-78; 8:45 am]

[8410-01]

WATER RESOURCES COUNCIL

COUNCIL OF MEMBERS (COM)

Meeting

AGENCY: U.S. Water Resources Council

SUBJECT: Notice of Council of Members (COM) Meeting.

ACTION: This notice announces a regular meeting of the Council of members (COM) of the U.S. Water Resources Council. The meeting will take place on August 16, 1978 at 1:30 p.m. in the Lower Level Conference Room, 2120 L Street NW., Washington, D.C. 20037. Agenda to be announced. Those portions of the meeting regarding the Water Resources Council budget considerations will be closed to the public.

FOR FURTHER INFORMATION CONTACT:

Richard N. Vannoy, Assistant Director, U.S. Water Resources Council, 2120 L Street NW., Washington, D.C. 20037, phone 202-254-6446.

Dated: July 20, 1978.

LEO M. EISEL,
Director.

[FR Doc. 78-20605 Filed 7-24-78; 8:45 am]

[8410-01]

BUMPING LAKE ENLARGEMENT PROJECT EXEMPTION

Adoption of Amendment to Procedure No. 1

AGENCY: U.S. Water Resources Council.

SUBJECT: Notice of Procedure No. 1 Amendment Adoption.

ACTION: This notice announces the adoption of an amendment to Procedure No. 1, Bumping Lake Enlargement Project Exemption, at the U.S. Water Resources Council of Members (COM) meeting on July 12, 1978. Procedure No. 1 as amended is reprinted below.

FOR FURTHER INFORMATION CONTACT:

Donald F. Parsons, Program Specialist, U.S. Water Resources Council, 2120 L Street NW., Washington, D.C. 20037, Phone: 202-254-6453.

PROCEDURE NO. 1 FOR PLANNING WATER AND RELATED LAND RESOURCES—SCHEDULE AND APPLICATION OF PRINCIPLES AND STANDARDS TO IMPLEMENTATION STUDIES IN PROCESS

A. Level C (implementation) plans, as defined by the Water Resources Council, July 27, 1970, which have been formulated in accordance with Senate Document No. 97, Supplement No. 1 thereto regarding recreation benefits, and the amendment of December 24, 1968, regarding discount rate, and transmitted to OMB prior to October 25, 1973, including those in this category which were transmitted to Congress for approval or authorization, will remain as formulated.

B. Level C plans on which field studies, analyses, and evaluation were completed as of October 25, 1973, and which were formulated in accordance with Senate Document No. 97 as supplemented and amended, and which were transmitted to OMB, or transmitted to OMB and to Congress for approval or authorization between October 25, 1973, and June 30, 1974, will include an addendum providing the following information.

1. Changes in Benefits and Costs: An evaluation of the plan without reformulation, using current normalized prices, current construction costs, and current recreation values.

2. Environmental Problems: A summary description of any significant environmental problems expected to be encountered or created by the plan.

3. Need for Reformulation: If the plan has unresolved environmental problems, a careful examination of the plan is to be undertaken by the responsible Federal agency, and reasons that reformulation of the plan is not needed prior to authorization will be set forth.

C. Level C (implementation) plans on which field studies analyses and evaluation were completed as of October 25, 1973, and which were formulated in accordance with Senate Document No. 97 as supplemented and amended, and which are either transmitted to OMB between July 1, 1974, and June 30, 1975, or which are in the review process on June 30, 1975, specifically designated and listed by the agencies, and transmitted to OMB between July 1, 1975, and June 30, 1977, *except for the Bumping Lake Enlargement Project, which date shall be June 30, 1979,* will require supplemental analysis. A list of the plans in this review process filed on July 1, 1975, by the agencies with the Water Resources Council. Plans in Section C will include an addendum providing the following information.

1. Changes in Benefits and Costs: An evaluation of the plan without reformulation, using current normalized prices, current construction costs, and current recreation values.

2. Environmental Quality Plan: An abbreviated environmental quality plan consistent with the intent of the "Principles and Standards," but which is abridged in detail.

3. Regional Development and Social Wellbeing: An abbreviated display of the regional development and social well-being impacts consistent with the intent of the "Principles and Standards," but which is abridged in detail.

4. Need for Reformulation: If the plan has unresolved environmental problems, a careful examination of the plan will be undertaken by the responsible Federal agency, and reasons that reformulation of a plan is not needed prior to authorization will be set forth.

D. Level C plans transmitted to OMB after June 30, 1975, except those specifically designated and listed under the provisions of Section C above, will be formulated in conformance with the "Principles and Standards" and applicable implementing Procedures.

E. For Level C plans which can be finally approved and carried out by an agency head pursuant to specific statutory provisions without further action by Congress, the application of the "Principles and Standards" is determined by substituting the words "approved administratively" for the words "transmitted to OMB" in Procedures A through D.

F. Agency heads responsible for applying the "Principles and Standards" may, if they desire, accelerate the schedule set out in this Procedure.

Dated: July 20, 1978.

LEO M. EISEL,
Director.

[FR Doc. 78-20606 Filed 7-24-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 684]

ASSIGNMENT OF HEARINGS

JULY 20, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps

to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 120582 (Sub-5), McMinnville Freight Line, Inc., now being assigned to October 2, 1978 at Nashville, TN (5 days) in a hearing room to be later designated.

MC 144011, Hall Systems, Inc., now being assigned September 25, 1978 (10 days) at Birmingham, AL in a hearing room to be later designated.

MC 29120 (Sub-207), All-American, Inc., now being assigned September 25, 1978 (3 days) at Denver, CO in a hearing room to be later designated.

MC 108633 (Sub-15), Barnes Freight Line, Inc., now being assigned October 2, 1978 at Atlanta, GA in a hearing room to be later designated.

MC 117883 (Sub-222), Subler Transfer, Inc., now being assigned October 11, 1978 (8 days), at Detroit, MI in a hearing room to be later designated.

MC 115654 (Sub-83F), Tennessee Cartage Co., Inc., now being assigned September 8, 1978 (1 day), at Nashville, TN, in a hearing room to be later designated.

MC 59150 (Sub-111), Ploof Truck Lines, Inc., now assigned September 19, 1968 at Washington, DC, is canceled; application dismissed.

MC-C-9996 *CF Tank Lines, Inc., et al.* v. *Zirbel Transport Inc.*, now being assigned September 21, 1978 (2 days), at Portland, OR, in a hearing room to be later designated.

MC 141532 (Sub-15), Pacific States Transport, Inc., now being assigned October 11, 1978 (3 days) at Olympia, WA, in a hearing room to be later designated.

No. 36962, *Camden Fibre Mills, Inc.* v. *New Hope and Ivyland Railroad Co., Kenneth J. Andrews, Trustees, et al.*, is now being assigned for hearing September 12, 1978 at the offices of the Interstate Commerce Commission, Washington, DC.

No. 36434, Commuter Fares-Consolidated Rail Corp., NJ and NY and No. 36474, *Benjamin A. Gilman* v. *Consolidated Rail Corp., et al.*, are now assigned for hearing September 18, 1978 (2 days) at Goshen, NY; and for continued hearing September 20, 1978 (3 days) at Suffern, NY, with both hearing rooms to be later designated.

MC 144119, Hansen Consolidators, Inc., is now assigned for hearing October 11, 1978 (3 days) at Chicago, IL, in a location to be later designated.

MC-C-9986, *Clark Transfer, Inc.* v. *Higgins Transportation, Ltd.*, is now assigned for hearing October 16, 1978 (1 day) at Chicago, IL, at a location to be later designated.

MC-F-13100, The Cleveland, Columbus & Cincinnati Highway, Inc.—Purchase (portion)—Great Lakes Express Co.; MC 3419 (Sub-11), The Cleveland, Columbus & Cincinnati, Inc.,

MC-F-13101, Red Star Express Lines of Auburn, Inc., d.b.a. Red Star Express Lines—Purchase (portion)—Great Lakes Express, Co.; MC-F—13102, Maiers Motor Freight Co.—Purchase (portion)—Great Lakes Express Co.; MC-F—13103, United Trucking Serivce, Inc.—Purchase (portion)—Great Lakes Express Co.

MC-F-13106, Branch Motor Express Co.—Control—Great Lakes Express Co.; MC-F—13116, Gra-Bell Truck Line, Inc.—Purchase (portion)—Great Lakes Express Co.; MC-F—13233, Arkansas Best Freight—Purchase (portion—Great Lakes Express Co. and MC-F-13568, Tucker Freight Lines, Inc.—Purchase (portion)—Great Lakes Express Co., are now assigned for continued hearing October 17, 1978 (4 days) at Chicago, IL, at a location to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-20586 Filed 7-24-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 20, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43583, Western Trunk Line Committee, Agent's, No. A-2753, rates on board or sheets in carloads, from Hudson Bay, SK, Canada, to stations in western trunk line territory, in Supp. 8 to its Tariff 490-A, ICC A-5073, to become effective August 13, 1978. Grounds for relief—motor carrier competition.

FSA No. 43584, Pacific Westbound Conference, No. 102, intermodal rates on general commodities, from rail carriers' terminals at Denver, CO, Chicago, IL, Minneapolis/St. Paul, MN, Kansas City and St. Louis, MO, and Milwaukee, WI by way of U.S. Pacific coast ports, to ports in the Far East, in its Tariff No. 10, ICC No. 4, to become effective September 1, 1978. Grounds for relief—water-rail competition.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-20585 Filed 7-24-78; 8:45 am]

[7035-01]

[Finance Docket No. 28767]

SOUTHERN RAILWAY CO.

Acquisition and Operation—of a Line of Railroad in Greenwood County, SC

Southern Railway Co., 920 15th Street NW., Washington, DC 20005 represented by Nancy S. Fleischman, Solicitor, Southern Railway Co., P.O. Box 1808, Washington, DC 20013, hereby give notice that on the 28th day of June 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under section 1(18) of the Interstate Commerce Act for an order approving and authorizing it to acquire and operate a segment of line of railroad, approximately 3.1 miles in length, in Greenwood County, SC, to permit relocation of its line of railroad between milepost V-80.1 and milepost V-89.1 through the City of Greenwood, SC.

By directly related applications under section 1a (Docket No. AB-26 (Sub-13)) and section 5(2) (Finance Docket No. 28768) of the act, Southern seeks abandonment and trackage rights authority. These three applications as a package constitute a request for Commission authorization to relocate Southern's main line through the City of Greenwood, SC. This relocation will take place at the behest and expense of the local, State, and Federal Governments. Southern will not construct or finance the construction of the connecting track. Southern will merely accept ownership of and operate over this trackage as a line of railroad.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), "Implementation—National Environmental Policy Act, 1969," 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See "Implementation—National Environmental Policy Act, 1969," supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommended to the Commission that it approve, disapproved, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-20583 Filed 7-24-78; 8:45 am]

[7035-01]

[Finance Docket No. 28768]

SOUTHERN RAILWAY CO.

Trackage Rights

Southern Railway Co., 920 15th Street NW., Washington, D.C. 20005, represented by Nancy S. Fleischman, solicitor, Southern Railway Co., P.O. Box 1808, Washington, D.C. 20013, hereby gives notice that on the 28th day of June, 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate

Commerce Act for an order approving and authorizing the acquisition of trackage rights over Central of Georgia RR. Co. and Seaboard Coast Line RR. Co. in Greenwood County, S.C.

Southern's trackage rights proposal is an essential portion of a federally funded grade crossing elimination demonstration project in Greenwood. The purpose of the relocation project is to eliminate numerous rail-highway crossings by removing Southern's main line from the city of Greenwood. Southern's main line operations will be relocated in part over the trackage rights proposed herein and in part over a new connection track.

Southern proposes to obtain trackage rights over approximately 3.4 miles of track of Central of Georgia between milepost GF-304.9 and milepost GF-308.4, which is also the point of connection between Central of Georgia and Seaboard. Southern's proposed trackage rights over Seaboard will begin at this point, Seaboard's milepost SG-425.25, and will extend for approximately 5.2 miles to milepost AKL-4.86 near Downs, S.C., at which point an existing connection between Seaboard and Southern's main line (milepost V-90.6) begins.

By directly related applications under section 1a (Docket No. AB-26 (Sub-No. 13)) and section 1(18) (Finance Docket No. 28767) of the act, Southern seeks authorization to abandon its existing main line which traverses downtown Greenwood and to acquire and operate a new track segment which will complete Southern's relocated line by connecting Southern's trackage south of Greenwood with the Central of Georgia trackage.

All existing customers at Greenwood will continue to be served from Southern's relocated line and from trackage retained in place. Commission approval of the proposed trackage rights transactions and of the relocation project itself will not have any significant impact on the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28768 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position; that is, party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-20584 Filed 7-24-78; 8:45 am]

[7035-01]

[Finance Docket Nos. 28797, 28798]

WESTERN MARYLAND RAILWAY CO. AND THE BALTIMORE & OHIO RR. CO.

Trackage Rights

Western Maryland Railway Co. (WM) and the Baltimore & Ohio RR. Co. (B. & O.), 2 North Charles Street, Baltimore, Md. 21201, represented by Richard B. Allen, General Solicitor, P.O. Box 6419, Cleveland, Ohio 44101, hereby give notice that on the 30th day of June 1978, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under section 5(2) of the Interstate Commerce Act for approval of certain trackage rights and coordinated operations. By their applications, WM seeks to acquire trackage rights over B. & O. lines between Baltimore, Md., and Miller (Cherry Run), W. Va., a distance of approximately 237.75 miles, and B. & O. seeks to acquire trackage rights over WM lines in Baltimore, Md., a distance of approximately 2.97 miles. Also, by their applications, WM and B. & O. seek to coordinate certain operations B. & O. lines between Baltimore and Cumberland, Md., a distance of approximately 300.28 miles.

The lines of the B. & O. between Baltimore, Md., and Miller (Cherry Run), W. Va. over which WM seeks trackage rights are as follows: (a) between Golden Ring (Baltimore Co.), Md., and Miller (Cherry Run), W. Va., via the Old Main Line Subdivision between Relay and Point of Rocks, Md., a distance of approximately 121.29 miles, in Baltimore, Carroll, Howard, Frederick, and Washington Counties, and the city of Baltimore, Md., and Berkeley, Jefferson, and Morgan Counties, W. Va.; (b) between Relay and Point of Rocks, Md., via Washington, D.C., a distance of approximately 69.34 miles, in Anne Arundel, Baltimore, Frederick, Howard, Montgomery and Prince Georges Counties, Md., and Washington, D.C.; (c) between Gray and Bay View in Baltimore, Md., a distance of approximately 8.07 miles; (d) between Locust Point and Bailey in Baltimore, Md., a distance of approximately 2.62 miles; (e) between Carroll and West Baltimore in Baltimore, Md., a distance of approximately 2.91 miles; (f) between Curtis Bay and Curtis Bay Junction in Baltimore, Md., a distance of approximately 5.46 miles; (g) between Carroll and Clifford in Baltimore, Md., a distance of approximately 1.63 miles; (h) between Alexandria Junction (Prince Georges County), Md., and Anacostia Junction, District of Columbia, a distance of approximately 6.23 miles; (i) between West Cumbo and Cherry Run, W. Va.; a distance of approximately 11.08 miles, in Berkeley and Morgan Counties, W. Va.; (j) between Fort Meade Junction and Fort Meade, Md., a distance of approximately 5.35 miles, in Anne Arundel County, Md.; (k) between Crisp and Wagners Point in Baltimore, Md., a distance of approximately 2.08 miles; (l) at Mount Winans in Baltimore, Md., a distance of approximately 0.46 mile; and (m) between Colgate Creek and Penn Mary Junction in Baltimore, Md., a distance of approximately 1.23 miles.

The lines of WM over which B. & O. seeks trackage rights are as follows: (a) between Port Covington and Mount Winans in Baltimore, Md., a distance of approximately 2.85 miles; and (b) at Mount Winans in Baltimore, Md., a distance of approximately 0.12 miles. The lines over which B. & O. and WM seek to coordinate operations include those described above and the following lines: (a) between Cherry Run (Miller), W. Va., and Cumberland, Md., a distance of approximately 59.37 miles, in Hampshire, Mineral, and Morgan Counties, W. Va., and Allegany County, Md.; and (b) at Wagners Point in Baltimore, Md., a distance of approximately 0.19 mile.

In the opinion of the Applicants, the granting of the authority sought will not constitute a mjaor Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex parte No. 55 (Sub-

No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human envionment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket Nos. 28797 and 28798 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position; that is, party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intent to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicants, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-20587 Filed 7-24-78; 8:45 am]

[7035-01]

Office of Proceedings

[Decisions Volume No. 15]

DECISION-NOTICE

JULY 12, 1978.

Decided: July 12, 1978.

The following applications are governed by Special Rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protest not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its (his) proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its (his) proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Acting Secretary.

*Dual operations may be involved in these proceedings.

MC 7555 (Sub-68F), filed June 23, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Oswego, Fulton, and Syracuse, NY, to Charlotte, NC and Jacksonville, FL. (Hearing site: Washington, DC.)

MC 8544 (Sub-31F), filed May 25, 1978. Applicant: GALVESTON TRUCK LINE CORP., 7415 Wingate, Houston, TX 77011. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, South Tower, Houston, TX 77002. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drilling mud compounds*, in bags, and (2) *stabilizer emulsifier* in drums, from Okmulgee, OK, to Houston, TX. (Hearing site: Houston or Dallas, TX.)

MC 13134 (Sub-55F), filed June 6, 1978. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, from the facilities of Kentucky-Tennessee Clay Co., (1) in Graves County, KY, (2) Henry and Weakley Counties, TN, and (3) Quitman County, MS, to points in CT, DE, IL, IN, MA, MD, MI, NJ, NY, OH, PA, RI, VA, and WV. (Hearing site: Louisville, KY or Memphis, TN.)

MC 20861 (Sub-10F), filed May 30, 1978. Applicant: FROZEN FOOD DE-

LIVERY SERVICE, INC., 300 West Street, Berlin, MA 01503. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paperboard cores and tubes*, and (2) *fiberboard, paperboard, and pulpboard ducts and tubes*, from Lawrence, MA, to points in CT, ME, NH, NJ, NY, PA, RI, and VT, under a continuing contract, or contracts, with Bird & Son, Inc., of East Walpole, MA. (Hearing site: Boston, MA.)

MC 26396 (Sub-181F), filed May 18, 1978, previously noticed in the FEDERAL REGISTER issue of June 15, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), (1) from the facilities of Kraft, Inc., at Pocatello, ID, to points in AZ, CA, CO, IA, IL, MN, MO, MT, ND, NV, OR, SD, UT, WA, WI, and WY, and (2) from points in AZ, CA, IL, MN, MO, MT, ND, SD, UT, WA, and WI, to the facilities of Kraft, Inc., at or near Pocatello, ID, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Boise, ID or Salt Lake City, UT.)

NOTE.—This republication adds WA to the destination in part (1), and authorizes the movement in part (2).

MC 30844 (Sub-611F), filed June 8, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corp. at or near Cedar Rapids, IA, to points in WI, restricted to the transportation of shipments originating at the named origin point and destined to the indicated destination points. (Hearing site: Chicago, IL or Washington, DC.)

MC 52709 (Sub-343F), filed June 21, 1978. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings*, from Denver, CO, to points in ID, KS, MT, NE, NV, ND, OR, SD, UT, WA, and WY. (Hearing site: Denver, CO.)

MC 56679 (Sub-106F), filed June 23, 1978. Applicant: BROWN TRANSPORT CORP., 352 University Avenue SW., Atlanta, GA 30315. Representative: John T. Coon (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, additives, and materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities used by Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IN, KY, LA, MD, MI, MN, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the facilities used by Kal Kan Foods, Inc., at Mattoon, IL. (Hearing site: Chicago, IL.)

MC 58959 (Sub-2F*), filed June 26, 1978. Applicant: A.L.A. DELIVERY CORP., 100 Caven Point Road, Jersey City, NJ 07305. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys, games, dolls, plastic articles, plumbing and heating materials and supplies, and paper and paper products*, from New York, NY, to Hauppauge, NY, restricted to the transportation of traffic having a prior movement by water. (Hearing site: New York, NY.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval.

MC 73165 (Sub-453F), filed June 19, 1978. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, AL 35202. Representative: R. Cameron Rollins (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers for air, gas, and liquids*, and (2) *equipment for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air and liquids*, and (3) *parts, attachments, and accessories* for use in the installation and operation of the commodities in (1) and (2) above, from the facilities of Trane Co. in Fayette County, KY, to points in IN, OH, PA, NJ, NH, NY, DE, CT, MD, MA, VT, ME, RI, and DC. (Hearing site: Columbus, OH or Louisville, KY.)

MC 83835 (Sub-151F), filed June 19, 1978. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, TX 75222. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vessels, heaters, tubing, and parts, accessories and attachments for vessels and heaters*, and (2) *material and supplies* used in the manufacture of vessels and heaters (except in bulk), between Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 85934 (Sub-79F), filed May 30, 1978. Applicant: MICHIGAN TRANSPORTATION CO., a corporation, 3601 Wyoming Avenue, P.O. Box Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box Box 400, Northville, MI 48167. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except commodities in bulk), from the facilities of The Dow Chemical Co. at or near Midland, MI, Magnolia, AR, Pevely, MO, Hanging Rock, OH, and Channahon, IL, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Washington, DC or Chicago, IL.)

MC 85934 (Sub-80F), filed June 9, 1978. Applicant: MICHIGAN TRANSPORTATION CO., a corporation, 3601 Wyoming Avenue, P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals and petroleum products*, in bulk, tank vehicles, from the facilities of BASF Wyandotte Corp., in Wayne County, MI, to points in AL, CA, CO, DE, GA, IA, IL, IN, KY, MA, ME, MI, MO, MS, NC, NH, NJ, OH, OK, PA, RI, SC, TN, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 94265 (Sub-274F), filed June 19, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meatpackinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk in tank vehicles), from (1) the facilities of Kenosha Beef International.

Ltd., in Kenosha County, WI, and (2) the facilities of Birchwood Meat Provision, Inc., in McHenry County, IL, to points in AL, FL, GA, KY, LA, MD, MS, NC, SC, TN, VA, WV, and DC, restricted to the transportation of traffic originating at the above-named origin facilities. (Hearing site: Milwaukee, WI, or Washington, DC.)

MC 102295 (Sub-33F), filed June 7, 1978. Applicant: GUY HEAVENER, INC., a Delaware corporation, 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal*, from points in Northumberland, Schuylkill, and Luzerne Counties, PA, to points in the United States (except AK, DE, HI, MD, MA, NJ, NY, PA, and VA), and (2) *filter coal*, from points in Northumberland, Schuylkill, and Luzerne Counties, PA, to points in DE, MD, MA, NJ, NY, and VA. (Hearing site: Washington, DC.)

MC 106674 (Sub-325F), filed June 9, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation, and materials, equipment, and supplies used in the manufacture, sale, and distribution of insulation* (a) from the facilities of the U.S. Fiber Corp., at or near Denison, TX, to points in AL, AR, KS, LA, MS, MO, OK, and TN, and (b) from the facilities of the U.S. Fiber Corp. at or near Newport, MN, to points in IA, IL, MI, ND, NE, SD, and WI; (2) *materials, equipment, and supplies used in the manufacture, sale, and distribution of insulation* (except commodities in bulk), from those points in the United States in and east of KS, ND, NE, OK, SD, and TX, to the facilities of U.S. Fiber Corp. at or near Denison, TX; Newport, MN; Oskaloosa, IA; Jonesville, NC; Lee, MA; and Delphos, OH; and (3) *paper bags*, from the facilities of Apex Bag Co. at or near Spencerville, OH, to the facilities of U.S. Fiber Corp., at or near Denison, TX, and Newport, MN.

MC 106674 (Sub-326F); filed June 9, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of the Pillsbury Co. at or near Fort Wayne, IN, to Detroit, MI. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107515 (Sub-1152F*), filed June 2, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Deep South Products, Inc., subsidiary of Winn-Dixie Stores, Inc, at Gainesville, GA, to Fort Worth, TX; Greenville, SC; Jacksonville, Miami, Orlando, and Tampa, FL; Louisville, KY, and Montgomery, AL. (Hearing site: Atlanta, GA.)

MC 107515 (Sub-1153F*), filed June 12, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, cosmetics, plastic boxes, weed-killing compounds, and animal and poultry feed supplements* (except commodities in bulk), from the facilities of Eli Lilly & Co., at or near Clinton, Lafayette, and Indianapolis, IN, to those points in TX on and west of U.S. Hwy 281, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, from those points in TX on and west of U.S. Hwy 281, to the facilities of Eli Lilly & Co., at or near Clinton, Lafayette, and Indianapolis, IN. (Hearing site: Indianapolis, IN.)

MC 107515 (Sub-1157F*), filed June 22, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 5th Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Standard Brands, Inc., at or near Chattanooga, TN, to points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, WV, WI, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 108119 (Sub-88F), filed June 26, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay and lignite coal*, (a) from the facilities of American Colloid Co., in Phillips County, MT, and Crook County, WY, to points in the United States (except AK and HI), and (b) from the facilities of American Colloid Co., in Big Horn and Weston Counties, WY, and Butte County, SD, to points in WA; and (2) *lignite coal*, from the facilities of American Colloid Co., in Bowman County, ND, to points in AZ, CA, LA, NM, OK, and TX. (Hearing site: Chicago, IL.)

MC 108341 (Sub-102F), filed May 22, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated buildings*, and (2) *equipment, materials, and supplies* used in the manufacture, installation, and erection of prefabricated buildings (except commodities in bulk), between the facilities of Traditional Log Homes, Inc., in Surry County, NC, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 110325 (Sub-83F), filed June 20, 1978. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority granted to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Huntington, WV, and Charleston, WV, from Huntington, over U.S. Hwy 60 (also over Interstate Hwy 64) to Charleston, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's presently authorized regular route operations. (Hearing site: Washington, DC, or Los Angeles, CA.)

MC 110525 (Sub-1246F), filed June 19, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flammable solvents*, in bulk, in tank vehicles, from the facilities of Inland Chemical Corp., in Henry County, KY, to points in AL, AR, DE, FL, GA, IL, IN, IA, KS, LA, MD, MI, MN, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC; and (2) *contaminated flammable solvents*, in bulk, in

tank vehicles, in the reverse direction. (Hearing site: Louisville, KY.)

MC 111375 (Sub-93F), filed June 19, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Charles E. Dye (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), from Independence and Waterloo, IA, and Omaha, NE, to points in AZ, CA, CO, NM, UT, WY, and WA. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 111717 (Sub-29F), filed May 22, 1978. Applicant: TRACTOR TRANSPORT, INC., 535 South 84th Street, Milwaukee, WI 53214. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by agricultural equipment and industrial equipment dealers and manufacturers (except commodities in bulk), between the facilities of Allis Chalmers Corp. and its dealers, at those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under a continuing contract, or contracts, with Allis Chalmers Corp., of Milwaukee, WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 112989 (Sub-69F), filed June 26, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, and materials, and supplies, and equipment* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the facilities of Mobil Chemical Co., Plastics Division, in Kerns and Yolo Counties, CA, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, NE, MV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: San Francisco, CA.)

MC 113651 (Sub-275F), filed May 31, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Paul R. Bergant, 10 South LaSalle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed foodstuffs*, in containers, from Kokomo, IN, and Leipsic, OH, to points in NY (except New York, NY, and points in its commercial zone), restricted to the transportation of traffic originating at the facilities of Libby, McNeil & Libby, at Kokomo, IN, and Leipsic, OH, and destined to the indicated destinations.

MC 113855 (Sub-431F), filed June 5, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55910. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery and punch presses*, and (2) *attachments, parts, and accessories* for the commodities described in (1) above, between the facilities of Warner & Swasey Co., at or near King of Prussia, PA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 113855 (Sub-432F), filed June 8, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boilers, heat exchangers* and *machinery*, and (2) *attachments, parts*, and *accessories* for the commodities in (1) above, (a) between Elmwood, Park, NJ, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), and (b) between Clifton, NJ, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 113855 (Sub-434F), filed June 15, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction, mining*, and *agricultural equipment* and supplies, and *off-highway trailers*, between Albuquerque, NM, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Albuquerque, NM.)

MC 114194 (Sub-205F), filed June 15, 1978. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, dry, in bulk, from the facilities of Lauhoff Grain Co., at or near Danville, IL, to points in NC, NY, and PA. (Hearing site: Chicago or Springfield, IL.)

MC 114457 (Sub-398F), filed June 9, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dog food*, from (a) Red Bay, AL, and (b) Tupelo, MS, to points in OH, PA, and WV. (Hearing site: Birmingham, AL, or St. Paul, MN.)

MC 114457 (Sub-399F), filed June 12, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods and bottled foodstuffs*, from (a) Cade and Lozes, LA, and (b) Wilson, NC, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, from points in TX to Cade and Lozes, LA. (Hearing site: New Orleans, LA, or St. Paul, MN.)

MC 114457 (Sub-400F), filed June 12, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials*, from points in LA, TN, and TX, to those points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Memphis, TN, or New York, NY.)

MC 114457 (Sub-401F), filed June 12, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials*, from points in NJ and NY, to points in IL, IN, KY, MI, OH, PA, and WI. (Hearing site: New York, NY, or St. Paul, MN.)

MC 115904 (Sub-102F), filed June 12, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Iron and steel articles, (1) from Chicago, IL, Wilmington, DE, Canonsburg, PA, Jersey City and Camden, NJ, New Orleans, LA, Savannah, GA, and Houston, TX, to those points in the United States in and east of AZ, CO, ND, NE, and SD, and (2) from Los Angeles, CA, to points in AZ, CA, CO, and NM. (Hearing site: Portland, OR, or Washington, DC.)

MC 116459 (Sub-69F), filed June 21, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid coal tar,* in bulk, in tank vehicles, from Chattanooga, TN, to Granite City, IL. (Hearing site: Chattanooga, TN, or Washington, DC.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission or do not require Commission approval. (Hearing site: Chattanooga, TN, or Washington, DC.)

MC 117119 (Sub-697F), filed June 20, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188. Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount department and variety stores, from points in AL, AZ, CA, DE (except Wilmington), FL, GA, LA, MD, MS, NM, those in NY west of U.S. Hwy 15, NC (except Charlotte), those in PA west of U.S. Hwy 15, SC, TX, VA, WV, and DC, to the facilities of Wal-Mart Stores, Inc., at Bentonville and Searcy, AR, restricted to the transportation of traffic originating at the indicated origins and destined to the named destinations. (Hearing site: Washington, DC.)

MC 118159 (Sub-269F), filed June 22, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing compounds* (except in bulk), from the facilities used by Church & Dwight Co., Inc., at or near Syracuse, NY, and in Sweetwater County, WY, to points in AL, AR, FL, GA, KS, LA, MS, MO, NC, OK, SC, TN, and TX. (Hearing site: Chicago IL.)

(MC 118831 (Sub-162F), filed May 31, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Gary L. Honbarrier, P.O. Box 7007, High Point, NC 27264. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank vehicles, from points in NC and SC, to points in TX, LA, OK, and AR. (Hearing site: Atlanta, GA, or Washington, DC.)

NOTE.—Applicant states that the purpose of this application is to remove an interchange agreement and substitute single line service.

(MC 119654 (Sub-44F), filed June 12, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic containers,* from Burlington, WI, to points in IL, IN, KY, MI, MO, and OH; and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of plastic containers, from points in IL, IN, KY, MI, MO, and OH, to Burlington, WI. (Hearing site: Chicago, IL, or Indianapolis, IN.)

(MC 119765 (Sub-52F), filed June 19, 1978. Applicant: EIGHT WAY EXPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpackinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), from the facilities of Farmland Foods, Inc., at Denison, Carroll, Iowa Falls, Sioux City, Fort Dodge, and Des Moines, IA, and Crete, Omaha, and Lincoln, NE, to points in MI, IN, KY, OH, WV, VA, NY, PA, MD, DE, NJ, VT, NH, ME, MA, CT, RI, and DC. (Hearing site: Omaha, NE.)

(MC 119789 (Sub-461F), filed June 29, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by discount department stores, from Columbus and Lancaster, OH, to Bentonville and Searcy, AR. (Hearing site: Little Rock, AR.)

MC 119789 (Sub-482F), filed June 21, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey, P.O. Box 226188, Dallas, TX 75266. Authority granted to operated as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building materials,* from the facilities used by R. W. Smith & Co., Inc., at Galveston, TX, to points in the United States (except AK, AR, CA, HI, KS, LA, MO, OK, OR, TX, and WA). (Hearing site: Houston, TX.)

MC 119789 (Sub-483F), filed June 21, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned meats,* with or without other ingredients, from West Point, MS, to points in AZ, CA, and WA. (Hearing site: Atlanta, GA.)

MC 119789 (Sub-484F), filed June 21, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey, P.O. Box 226188, Dallas, TX 75266. Authority granted to operate as a *commmon carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at Kendallville, IN, and Champaign, IL, to Dallas and Garland, TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

Mc 119789 (Sub-485F), filed June 23, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid plastic,* in containers, in vehicles equipped with mechanical refrigeration, from Riverside, CA, to points in the United States (except AK, HI, IL, IN, IA, LA, MI, MN, MO, NE, NM, OR, TX, and WA). (Hearing site: Los Angeles, CA.)

MC 119991 (Sub-22F), filed May 30, 1978. Applicant: YOUNG TRANSPORT, INC., 1601 Woodlawn, P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Hides and pelts,* (1) between points in GA, MA, MS, and ND, and (2) between points in GA, MA, MS, and ND, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, ME, MD, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, SD, TN, VT, VA, WV, and WI. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 120761 (Sub-39F), filed May 31, 1978. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay* (except in bulk), and *lignite coal* (except in bulk), (1) from the facilities of American Colloid Co., in Crook County, WY, and Phillips County, MT, to points in the United States (except AK and HI), and (2) from points in Big Horn County, WY, and Bowman County, ND, to points in AZ, CA, LA, NM, OK, MT, and TX.

MC 123069 (Sub-24F), filed June 23, 1978. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, OH 43212. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizing compounds*, in containers, (2) *grass seed*, in boxes or bags, (3) *pesticides*, and (4) *fertilizer and seed distributors and spreaders, carts, lawn mowers, and grass catchers*, from Columbus and Maryville, OH, to points in IL, IN, KY, PA, and WV. (Hearing site: Columbus or Cleveland, OH.)

MC 123389 (Sub-48F), filed June 23, 1978. Applicant: CROUSE CARTAGE CO., a corporation, P.O. Box, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, from Jacksonville, FL, to points in IL, IA, MN, MO, NE, ND, and SD. (Hearing site: Omaha, NE.)

MC 123407 (Sub-466F), filed June 12, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies used in the manufacture of roofing and roofing materials*, from points in IN, KY, MD, MI, NY, PA, and WV, to the facilities used by Owens-Corning Fiberglass Corp., at Medina, OH. (Hearing site: Chicago, IL.)

MC 123744 (Sub-39F), filed June 2, 1978. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from Irondale and Wellsville, OH, to points in CT, DE, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA, and VT, restricted to the tranportation of shipments originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123744 (Sub-40F), filed June 9, 1978. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, (1) from the facilities of A. P. Green Refractories Co., at or near Fulton and Mexico, MO, (a) to points in KY, MD, MI, MO, NJ, NY, OH, PA, TN, VA, and WV, and (b) to the facilities of A. P. Green Refractories Co., at or near Goose Lake, IL, (2) from the facilities of A. P. Green Refractories Co., at or near Goose Lake, IL, to points in MO and IN, (3) from the facilities of A. P. Green Refractories Co., at or near East Greenville, OH, to points in IL, IN, KY, MD, MI, MO, NJ, NY, PA, TN, VA, and WV, (4) from the facilities of A. P. Green Refractories Co., at or near Woodbridge, NJ, to points in IL, IN, KY, MD, MI, MO, NY, OH, PA, TN, VA, and WV, and (5) from the facilities of A. P. Green Refractories Co., at or near Philadelphia, PA, (a) to points in MI and OH, and (b) to points in NY, restricted in (5)(b) to the transportation of shipments moving in foreign commerce. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123819 (Sub-63F), filed June 16, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flourescent lighting fixtures, and parts* used in the installation of flourescent lighting fixtures, from Tupelo, MS, to points in the United States (except AK and HI). (Hearing site: Biloxi, MS.)

MC 123819 (Sub-64F), filed June 26, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry beverage preparations* (except in bulk), from Newport, TN, to points in LA and MS. (Hearing site: Knoxville, TN.)

MC 123819 (Sub-65F), filed June 29, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestones* (except in bulk), from Sylacauga, AL, to points in AR, FL, IL, IN, KY, LA, MI, MO, MS, NC, OH, SC, TN, and TX. (Hearing site: Birmingham, AL.)

MC 125777 (Sub-225F), filed June 12, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from Toledo, OH, to points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, MS, NC, NH, NJ, NY, PA, RI, SC, TN, VA, VT, WV, and DC. (Hearing site: Chicago, IL.)

MC 126844 (Sub-50F), filed June 8, 1978. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and frozen foodstuffs*, from Archbold, OH, to points in CT, MD, MA, NJ, NY, PA, and VA. (Hearing site: Washington, DC.)

MC 126844 (Sub-51F), filed June 9, 1978. Applicant: R.D.S. TRUCKING CO. INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides, and commodities in bulk), from Grand Island, NE, to points in CT, DE, MA, MD, NJ, NY, PA, RI, VA, and DC. (Hearing site: Washington, DC.)

MC 128007 (Sub-125F), filed June 12, 1978. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate*, in bulk, from North Little Rock, AR, to points in OK, TX, KS, and MO. (Hearing site: Kansas City, MO, or Columbus, OH.)

MC 129387 (Sub-67F), filed June 14, 1978. Applicant: PAYNE TRANSPOR-

TATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Doug W. Sinclair (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Packers Cold Storage, Inc., at or near Fullerton, Anaheim, and La-Habre, CA, to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. (Hearing site: Los Angeles, CA.)

MC 134280 (Sub-4F), filed May 15, 1978. Applicant: YOUNG'S EXPRESS, INC., 1501 North Warwick Avenue, Baltimore, MD 21216. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by manufacturers of power tools*, (2) *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), and (3) *empty used containers, used trailers, and used trailer chassis*, (except commodities in bulk), between Baltimore, MD, on the one hand, and, on the other, Hampstead, MD, under continuing contract(s) with Black & Decker Manufacturing Co., of Towson, MD, restricted to the transportation of traffic having a prior or subsequent movement by water or rail. (Hearing site: Baltimore, MD, or DC.)

MC 134599 (Sub-161F*), filed June 12, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic rubber* (except commodities in bulk, or those which because of size or weight require special equipment), from the facilities used by Uniroyal, Inc., at Cheswold, DE, to points in OH and PA, under a continuing contract, or contracts, with Uniroyal, Inc., of Middlebury, CT. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

MC 134755 (Sub-150F*), filed June 21, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), from the facilities of General Foods Corp., at or near Dover, DE, to points in MO and CO, restricted to the transportation of traffic originating at the facilities of General Foods Corp. and destined to the named destinations; and (2) *Pet foods* (except in bulk), from Berlin, MD, to points in OH. (Hearing site: Kansas City or St. Louis, MO.)

MC 135797 (Sub-122F), filed June 6, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul A. Maestri (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles and materials* (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of plastic articles and materials (except commodities in bulk), between the facilities of Mobil Chemical Co., Plastics Division, in Newton, Fulton, DeKalb, and Rockdale Counties, GA, on the one hand and, on the other, points in the United States (except AK and HI), restricted to the transportation of shipments originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 135797 (Sub-124F), filed June 12, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul A. Maestri (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wax impregnated fireplace logs* (except in bulk), from Lowell, AR, to points in AL, GA, IL, IN, KY, LA, MS, MO, OK, and TN. (Hearing site: San Francisco, CA.)

MC 138484 (Sub-19F), filed June 2, 1978. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by grocery and food business houses* (except commodities in bulk, in tank vehicles), (1) from the facilities used by Kraft, Inc., at or near Pocatello, ID, to points in AZ, CA, CO, MT, NV, UT, WA, and WY, and (2) from points in CA, MT, UT, and WA, to the facilities used by Kraft, Inc., at or near Pocatello, ID, restricted to the transportation of shipments originating at the indicated origins and destined to the indicated destinations. (Hearing site: Boise, ID.)

MC 138635 (Sub-55F*), filed June 21, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Straw florist forms*, from Dallas, NC, to points in CA, OR, WA, and UT. (Hearing site: Charlotte, NC.)

MC 138869 (Sub-17F*), filed June 12, 1978. Applicant: W. T. MILES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feeds, mineral mixtures, tonics, medicines, pesticides, feeders, and equipment* (except liquid commodities in bulk), from the facilities of Moorman Manufacturing Co., at or near Quincy, IL, to points in NC; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except liquid commodities, and dry chemicals, in bulk), from points in NC, to the facilities of Moorman Manufacturing Co., at or near Quincy, IL, under a continuing contract, or contracts, in (1) and (2) above, with Moorman Manufacturing of Quincy, IL. (Hearing site: Atlanta, GA.)

MC 139495 (Sub-360F), filed June 21, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yarn and wool*, from the facilities of National Spinning Co., Inc., at or near Washington, Beulaville, Whiteville, and Warsaw, NC, to points in CA, CT, IL, ME, MA, MN, MS, NJ, NY, OH, PA, RI, TX, and WI. (Hearing site: Washington, DC.)

MC 139559 (Sub-1F), filed June 12, 1978. Applicant: B & H CARTAGE, INC., 52 Summit Street, Newark, OH 43055. Representative: William L. Weese (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Newark and Columbus, OH, restricted to the transportation of traffic having a prior or subsequent movement by rail in trailer-on-flat-car service. (Hearing site: Columbus, OH, or Washington, DC.)

MC 139615 (Sub-18F), filed June 21, 1978. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA

50309. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) from the facilities of Youngstown Sheet and Tube Co., at or near East Chicago, IN, to points in IA, NE, and CO, and (2) from the facilities of House of Stainless, Inc. at or near Chicago, IL, to Oskaloosa, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 139897 (Sub-4F), filed June 14, 1978. Applicant: ORRAN HOF- STETTER, INC., P.O. Box 237, Orrville, IN 44667. Representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, IN 43017. Authority granted to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from the facilities of C. & J. Coal Co., at or near Clarksburg, WV, to points in Sandusky and Seneca Counties, OH. (Hearing site: Columbus, OH.)

MC 140024 (Sub-116F), filed May 22, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Representative: John F. DeCock (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and pharmaceuticals* (except commodities in bulk), from the facilities of the P. F. Laboratories, Inc., at or near Totowa, NJ, to the facilities of the P. F. Laboratories, Inc., and its distributors, at Itasca, IL, and Vernon, CA. (Hearing site: New York, NY.)

MC 140159 (Sub-8F), filed June 21, 1978. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Thomas M. Mulroy, 800 Lawyers Building, Pittsburgh, PA 15219. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from Fairport, OH, to points in Clearfield, Snyder, Mifflin, Juniata, Perry, Cumberland, Adams, Franklin, and Somerset Counties, PA. (Hearing site: Pittsburgh, PA, or Cleveland, OH.)

MC 140601 (Sub-7F), filed May 31, 1978. Applicant: BILLY FRANK, d.b.a. FRANK BROS., 349 Abbott Avenue, Hillsboro, TX 76645. Representative: Robert J. Birnbaum, 500 West 16th Street, P.O. Box 1945, Austin, TX 78767. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Asbestos cement pipe and plastic pipe*, and (b) *fittings and accessories* for asbestos cement pipe and plastic pipe, between the facilities of Certain-teed Corp., in St. Louis County, MO, on the one hand, and, on the other, points in AL, AR, CO, GA, KS, LA, MS, NE, NC, NM, OK, SC, TN, and TX; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), from points in AL, AR, CO, GA, KS, LA, MS, NE, NC, NM, OK, SC, TN, and TX, to the facilities of Certain-teed Corp., in St. Louis County, MO, under a continuing contract, or contracts, in (1) and (2) above, with Certain-teed Corp., of Valley Forge, PA. (Hearing site: Dallas, TX, or St. Louis, MO.)

MC 140829 (Sub-107F*), filed June 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, and materials, equipment and supplies* used in the manufacture of printed matter (except commodities in bulk, in tank vehicles), (1) between the facilities of the Donnelley Printing Co., at Lancaster, PA, and the facilities of the R. R. Donnelley and Sons Co., at Willard, OH, Chicago, Dwight, and Mattoon, IL, Crawfordsville and Warsaw, IN, Glasgow, KY, and Old Saybrook, CT, and (2) from the facilities of the Donnelley Printing Co., at Lancaster, PA, to points in AZ, CA, CO, IL, IN, MI, MN, MO, NE, OH, TX, and WI, restricted in (2) above to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-108F*), filed June 19, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film and sheeting* (except cellulose), from the facilities of Deerfield Plactics Inc., at South Deerfield, MA, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, and WI, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-109F*), filed June 19, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from the facilities of the Schraft Candy Co., at Boston, MA, and Reading, PA, to points in AZ, AR, CA, CO, IL, IN, MO, OH, TN, and TX, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-110F*), filed June 12, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations and foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of the Alberto Culver Co., at or near Melrose Park, IL, to points in CA, CO, MA, NV, NJ, NY, PA, and TX, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-111F*), filed June 23, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from the facilities used by Charms Co., at Covington, TN, to points in AZ, AR, CA, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, OH, OK, TX, and WI, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-112F*), filed June 23, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, and materials, equipment, and supplies* used by manufacturers and distributors of chemicals (except commodities in bulk, in tank vehicles), between the facilities of McKesson Chemical, at or near Berkeley, MO, on the one hand, and, on the other, points in CA, DE, FL, IL, IN, LA, MD, MI, NJ, NY, OH, PA, TN, TX, VA, WV, WI, and WY, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 140829 (Sub-113F*), filed June 23, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from the facilities of E. J. Brach & sons, Inc., at Chicago and Carol Stream, IL, to points in CT, MD, MA, NJ, MY, TN, VA, and DC, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140829 (Sub-114F*) filed June 20, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations and personal care products*, from the facilities used by Knomarck, Inc., at or near Jamaica, NY, to points in CA, IL, MI, OH, and TX, restricted to the transportation of shipments originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140889 (Sub-4F), filed June 16, 1978. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric motors and electric welders*, (2) *parts and accessories* for electric motors and electric welders, (3) *welding supplies*, and (4) *hand truck parts*, from the facilities of Lincoln Electric Co., in Cuyahoga and Lake Counties, OH, to (a) points in that part of MI on, east, and south of a line extending along U.S. Hwy 23 from the OH-MI State line to Flint, then along MI Hwy 21 to Port Huron, (b) points in that part of PA within a territory extending along U.S. Hwy 422 from the OH-PA State line to Indiana, PA, then south along U.S. Hwy 119 to junction Interstate Hwy 70, then west along Interstate Hwy 70 to the OH-PA State line, and (c) points in that part of NY on and west of a line extending along NY Hwy 98 from Lake Ontario to junction NY Hwy 16, then along NY Hwy 16 to the NY-PA State line, under a continuing contract, or contracts, with Lincoln Electric Co., of Cleveland, OH. (Hearing site: Columbus, OH.)

MC 141320 (Sub-11F), filed June 6, 1978. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., 900 Walt Whitman Road, Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, medical isotopes, medical test kits, and equipment, materials, and supplies* used in administering, packaging, and testing radiopharmaceuticals, medical isotopes, and medical test kits (except commodities in bulk), between points in NJ, on the one hand, and, on the other, points in ME, VT, NH, NY, MA, CT, RI, PA, DE, MD, and DC, under a continuing contract, or contracts, with E. R. Squibb & Sons, Inc., of New Brunswick, NJ. (Hearing site: New York, NY.)

MC 141804 (Sub-112F), filed May 11, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, TN 37072. Representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical appliances, electric sending, receiving, and recording equipment, electric staplers, electric pencil sharpeners, electric calculators*, and (2) *displays, parts, and accessories* for the commodities in (1), from (1) Seattle, WA, and (2) Tacoma, WA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: New York, NY, or Nashville, TN.)

MC 141804 (Sub-113F), filed May 22, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, TN 37072. Representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, TN 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cosmetics, hair care products, toilet preparations, and skin care products*, between Pomona, CA; St. Paul, MN; and Ridgefield and South Plainfield, NJ. (Hearing site: New York NY, or Nashville, TN.)

MC 142559 (Sub-28F*), filed June 12, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, (a) from Terre Haute, IN, and Cliffwood, NJ, to points in NC, OH, and VA, (b) from Warner Robins, GA, to points in MO, OH, and VA, and (c) from Shakopee, MN, to points in WI. (Hearing site: New York, NY.)

MC 142954 (Sub-3F), filed May 24, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric wire and wiring devices*, (1) from Hillsgrove, RI, and Maspeth and Brooklyn, NY, to Bensonville, IL, under a continuing contract, or contracts, with Leviton Manufacturing Co., Inc., of Little Neck, NY, and (2) from South Attleboro, MA, and Pawtuckett, RI, to Bensonville, IL, under a continuing contract, or contracts, with American Insulated Wire Co., a subsidiary of Leviton Manufacturing Co., Inc., of Pawtuckett, RI. (Hearing site: Washington, DC.)

MC 142999 (Sub-6F), filed June 23, 1978. Applicant: TRANSPORT MANAGEMENT SERVICE CORP., Route 332 and Terry Drive, Newtown, PA 18940. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Herbicides, insecticides, and fungicides* (except in bulk), from St. Gabriel, LA; McIntosh and Mobile, AL; and Jackson, MS, to points in AZ, CA, OR, and WA, under a continuing contract, or contracts, with Ciba-Geigy Corp., of Ardsley, NY. (Hearing site: Washington, DC.)

MC 144041 (Sub-15F), filed May 25, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials* (except in bulk), between points in the United States (except HI and AK), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Co., Plastics Division. (Hearing site: Buffalo, NY, or Washington, DC.)

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 140883.

MC 144219 (Sub-1F), filed June 23, 1978. Applicant: B.I.T., INC., P.O. Box 2665, La Habra, CA 90603. Representative: Greg P. Stefflre, 700 South Flower Street, Suite 1724, Los Angeles, CA 90017. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass, mirrors, and automobile windows and windshields*, and (2) *materials and supplies* used in the manufacture, sale, and installation of the commodities named in (1) above, from the facilities of Buchmin Industries, Inc., at or near Reedley, CA, to points in AZ, CO, ID, MT, NM, NV, OK, OR, TX, UT, WA, and WY, under a continuing contract, or contracts, with Buchmin Industries, Inc., of Reedley, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 144447 (Sub-1F), filed June 14, 1978. Applicant: TREXLER TRUCKING, INC., Route 1, Box 248, Gold Hill, NC 28071. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lightweight aggregate*, in bulk, in dump vehicles, from the facilities of Carolina Stalite Co., at or near Gold Hill, NC, to points in GA, KY, SC, TN, VA, and WV; and (2) *coal*, in bulk, in dump vehicles, from points in KY, TN, VA, and WV, to the facilities of Carolina Stalite Co., at or near Gold Hill, NC. (Hearing site: Salisbury, NC.)

MC 144449 (Sub-1F), filed May 19, 1978, previously published in the FEDERAL REGISTER issue of July 6, 1978. Applicant: A & A MOVING & STORAGE, doing business as A & A Contract Carriers, a corporation, 414 Blue Smoke Court West, Fort Worth, TX 76101. Representative: Stephen B. Jurbala, 2355 Stemmons, Suite 1000, Dallas, TX 75207. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Retail store supplies, office equipment, and office supplies*, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above, (a) between the facilities of Pitney-Bowes, at Newtown, Danbury, and Stamford, CT, and Linden and South Plainfield, NJ, (b) between the facilities of Pitney-Bowes, at Newtown, CT, and Cincinnati, OH, and the facilities of Monarch Marking System, at Miamisburg, OH, and (c) between the facilities of Pitney-Bowes, at Newtown, Stamford, and Danbury, CT, and Chicago, IL, in (a), (b), and (c) above, under a continuing contract, or contracts, with Pitney-Bowes, of Stamford, CT.

NOTE.—The purpose of this republication is to authorize the transportation of office equipment, and to show the correct spelling of "Newtown, CT."

MC 144630 (Sub-3F), filed June 5, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46012. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are distributed or sold by cosmetics and jewelry business houses*, from the facilities of Avon Products, Inc., at Springdale, OH, to Monrovia and Pasadena, CA. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 144637 (Sub-2F), filed June 12, 1978. Applicant: PROFESSIONAL DELIVERY SERVICE, INC., 49(0) East Industry Court, Deer Park, NY 11729. Representative: Jack Schiller, 1 Lefrak City Plaza, Flushing, NY 11368. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, televisions, audio equipment, and furniture*, (1) from the facilities of Allbrand Appliance & T.V. Co., Inc., at or near Deer Park and Long Island City, NY, to the facilities of Allbrand Appliance & T.V. Co., Inc., at or near Cambridge, MA; Meridan, CT; North Kingstown, RI; and North Miami, FL, and (2) from points in MA, CT, RI, and FL, to the facilities of Allbrand Appliance & T.V. Co., Inc., at or near Deer Park and Long Island City, NY, under a continuing contract, or contracts, with Allbrand Appliance & Television Co., Inc., of Long Island City, NY. (Hearing site: New York, NY.)

MC 144874F, filed June 12, 1978. Applicant: HARRY J. BERRY, d.b.a. BERRY TRUCKING, P.O. Box 658, Penns Grove, NJ 08069. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass and plastic articles* (except in bulk), from the facilities used by the Fiberglass Equipment Division of Dart Environmental Services Co., at or near Penns Grove, NJ, to points in CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MO, NC, NH, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC. (Hearing site: Washington, DC.)

MC 144909F*, filed June 23, 1978. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unaccompanied luggage*, having an immediately prior to subsequent movement by air, between Logan International Airport, at or near Boston, MA, on the one hand, and, on the other, points in ME, MA, NH, and RI. (Hearing site: Boston, MA.)

NOTE.—The carrier must satisfy the Commission that its common control possibilities are either approved by the commission or do not require Commission approval.

MC 144929F, filed June 22, 1978. Applicant: B & J TRUCKING, INC., Frontage Road, Road 3, Piedmont, SC 29673. Representative: Brian Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Textiles*, (a) from the facilities used by Monsanto Co., at Decatur and Sand Mountain (near Guntersville), AL, Greenwood and Blacksburg, SC, and Gonzalez, FL, (b) from the facilities used by Monsanto, Inc., a wholly owned subsidiary of Monsanto Co., at Fayetteville, NC, (c) from the facilities used by Favil Manufacturing Co., Inc. a wholly owned subsidiary of Monsanto Co., at Foley, AL and Abbeville, SC, and (d) from the facilities used by Monsanto Co., at Huntsville, AL, to points in CA, NM, OR, TX, and WA; (2) *adipic acid* (except in bulk), from the facilities used by Monsanto Co., at Gonzalez, FL, to Los Angeles, Santa Clara, San Francisco, and Oakland, CA; (3) *resin plasticizers* (except in bulk), from the facilities used by Monsanto Co., at Inman, SC, to Los Angeles, CA; (4) *insecticides and resin plasticizers* (except in bulk), from the facilities used by Monsanto Co., at Anniston, AL, to Los Angeles, CA; (5) *bleach assistant compounds* (except in bulk), from the facilities used by Monsanto Co., at Luling, LA, to Los Angeles, Santa Clara, San Francisco, and Oakland, CA; and (6) *food preserving compounds* (except in bulk), from the facilities used by Monsanto Co., at Texas City and Chocolate Bayou, TX, to Los Angeles, Santa Clara, San Francisco, and Oakland, CA, under a continuing contract, or contracts, in (1) through (6) above, with Monsanto Co., of St. Louis, MO. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 144935F, filed June 16, 1978. Applicant: C & C TRUCKING, INC., Route 9, Box 222A, Statesville, NC 28677. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from the facilities of Impact Furniture, Inc., at or near Hildebran (Burke County), NC, to points in AZ and CA, under a continuing contract, or contracts, with Impact Furniture, Inc., of Hickory, NC. (Hearing site: Charlotte, NC.)

PASSENGER AUTHORITY

MC-144284 (Sub-2F), filed May 16, 1978. Applicant: THE LAIGHTS LTD., o/a HANOVER COACH LINES, P.O. Box 216, Hanover, ON, Canada 4N4 3C4. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage in the same vehicle with passengers*, in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, and extending to points in the United States (including AK but excluding HI). (Hearing site: Buffalo, NY.)

NOTE.—The Canadian points involved in this application are Walkerton, Chesley, Neustadt, and Hanover, ON, Canada. The

grant of authority in this proceeding is phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

WATER CARRIER AUTHORITY

W 1320 (Sub-1F), filed May 17, 1978. Applicant: EDWARD H. BARNABY and RICHARD W. CASEY, a partnership, d.b.a. CMT TRANSPORTATION CO., P.O. Box 216, Chicago, IL 60617. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL, 60603. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities generally*, by non-self propelled vessels with the use of separate towing vessels, between ports and points along Lake Michigan, Lake Superior, Lake Huron, Lake Erie, and Lake Ontario, and interconnecting waterways. (Hearing site: Chicago, IL.)

[FR Doc. 78-20472 Filed 7-24-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6740-02]

1

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 30644, published July 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., July 19, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-7. CP78-351, Transcontinental Gas Pipe Line Corp.

KENNETH F. PLUMB,
Secretary.

[S-1509-78 Filed 7-21-78; 11:05 am]

[7020-02]

2

[USITC SE-78-36]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 11 a.m., Thursday, August 3, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): (a) Whips (docket No. 524); (b) Nylon from France (Docket No. 525); (c) Perchlorethylene from Belgium, France, and Italy (Docket No., 526).
5. Copper (Inv. TA-201-32)—Vote on injury (at 2 p.m.).
6. Bolts, nuts, and screws—Vote on the question of "good cause."
7. Bicycle tires and tubes (Inv. TA-201-33)—Briefing.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1510-78 Filed 7-21-78; 11:05 am]

[7035-01]

3

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9 a.m., Monday, July 31, 1978.

PLACE: Hearing Room "B", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Oral argument.

MATTER TO BE CONSIDERED: Corrected Second Revised Service Order No. 1309—Railroad operating regulations for freight car movement.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, Telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1511-78 Filed 7-21-78; 3:54 pm]

federal register

TUESDAY, JULY 25, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CHEMICAL USE LIST

Request for Public Comment

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

Office of Toxic Substances

[FRL 930-7; OTS-010001]

CHEMICAL USE LIST

Request for Public Comment

AGENCY: Environmental Protection Agency, Office of Toxic Substances.

ACTION: Request for public comment.

SUMMARY: Under the authority of the Toxic Substances Control Act (TSCA), Pub. L. number 94-469, 15 U.S.C. 2601 et seq. (1976), the Administrator of the Environmental Protection Agency (EPA) may require manufacturers, importers, and processors of chemical substances for commercial purposes to report to the Agency information concerning the use of chemical substances. EPA is developing a system to classify use information, called the Chemical Use List, for purposes of industry reporting and EPA decisionmaking.

This notice describes the Chemical Use List at its present state of development and identifies certain key issues regarding its implementation. Public comment is solicited on these, or any other issues related to the list, including alternative approaches to chemical use classification. Comments received will be considered carefully in the Agency's evaluation of the applicability, utility, and technical merit of the Chemical Use List, and in possible future modifications. This notice itself does not require reporting of any information to EPA.

ADDRESSES: Persons who wish to submit written comments on the Chemical Use List and the issues discussed in this notice are requested to submit them by September 22, 1978 to: Joyce Barbour, Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and should bear the identifying notation OTS-010001. All written comments filed pursuant to this notice will be available for public inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays, in room 711A, WSME, EPA Headquarters, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Director, Industry Assistance Office, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The toll-free telephone number is 800-424-9065. In Washington, D.C., please call 554-1404. Persons who desire informal meetings with EPA representatives should contact the industry assistance office as directed. All such meetings must take place before September 22.

BACKGROUND

Under the Toxic Substances Control Act, the Environmental Protection Agency is responsible for identifying and regulating commercial chemical substances which may pose an unreasonable risk to human health or the environment. In order to discharge this responsibility, the Agency will require many different kinds of information on chemical substances. For example, to perform a risk assessment on a chemical substance, the Agency must consider what the substance is used for, its known or potential toxic effects, production levels, persistence in the environment, transport, environmental fate, physical/chemical properties, and other related data.

The Agency is assessing the merits of utilizing a use classification system, such as the Chemical Use List, for the purpose of assisting industry in clearly and uniformly reporting use information under sections 5 and 8. Although the Agency does not intend to require reporting of use information on all chemical substances included in the section 8(b) inventory, EPA will require reporting of use information on selected chemicals or certain categories of chemicals in order to carry out TSCA. For instance, under section 5, persons who intend to manufacture a chemical substance that is not on the section 8(b) inventory of chemical substances, or who intend to manufacture or process a chemical substance for a significant new use, are required to submit a notice to the Agency providing, among other information, the proposed categories of use for the chemical substance. Under section 8, the Agency intends to promulgate rules which will require the reporting of use information on selected chemicals or certain categories of chemicals, when such information is needed for purposes of supporting the findings for a testing requirement under section 4, or for assessing unreasonable risk and determining the availability of substitute chemicals under section 6.

REQUIREMENTS FOR A USE CLASSIFICATION SYSTEM

EPA's use classification system should be sufficiently comprehensive to encompass all categories of usage that fall within the jurisdiction of TSCA. The classification system, however, should not include superfluous categories. Because new uses for chemical substances are constantly being discovered, it is essential that the system be expandable to include new uses as they arise. Furthermore, the system should allow a person with only a moderate technical background to easily and accurately determine how to classify a chemical use.

DEVELOPMENT OF CHEMICAL USE LIST

In developing the Chemical Use List, EPA evaluated a number of existing classification systems, including the following:

Standard Industrial Classification Manual, Office of Management and Budget, 1972.
Numerical List of Manufactured Products, Bureau of the Census, 1973.
Tariff Schedules of the U.S., Annotated, U.S. International Trade Commission, 1975.
Schedule A—Commodities Imported into the U.S., Bureau of the Census, 1960.
Schedule B—Commodities Exported from the U.S., Bureau of the Census, 1971 (with revisions through 1975).
Classified Index of Industries and Occupations, Bureau of the Census, 1971.
U.S. Foreign Grade Statistics: Classifications and Cross-Classifications, 1974, Bureau of the Census, 1975.
Standard International Trade Classification, Revised, United Nations, 1961.
Nomenclature for the Classification of Goods in Customs Tariffs (Brussels Tariff Nomenclature), Customs Co-operation Council (Brussels), 1955.
International Standard Industrial Classification of all Economic Activities, United Nations, 1968.
Commodity Classification for Transportation Statistics, Office of Management and Budget, 1972.
List of Materials Consumption Items, Bureau of the Census, 1972.
Federal Supply Classification, Defense Supply Agency, 1975.

While some of these systems were superior to others, no system satisfied all of the requirements previously stated.

EPA has conducted a pilot test in which seven chemical companies tested whether they could use a progenitor to the Chemical Use List containing some 200,000 function/application terms to classify uses of some of the chemical substances they manufactured, processed, or imported. After analyzing the results and comments received, EPA developed the simplified list of some 800 terms and is now submitting it for wider review.

EPA recognizes that neither the list of function terms nor the corresponding list of application terms may be complete and that a list identifying all significant uses may never be feasible. EPA encourages respondents to this notice to suggest new function or application terms that are necessary to describe accurately the uses of their chemical substances.

CHEMICAL USE LIST

The Chemical Use List is a list of some 800 numerically coded uses, each defined by a combination of a "function" and an "application". A function is an action which a chemical substance performs, while an application is the manufacturing, service, or con-

sumer activity in which the chemical function is utilized. By assigning a numerical code to each function and to each application, the use of a chemical substance can be represented by a combination of a function and an application in a convenient notation for reporting. For example, if a chemical substance functions as an abrasive grinding compound which has an application in carpentry, the numerical code for this specific use will be 0021-03200, as indicated in appendix I. Instructions for using the Chemical Use List can be found in the section entitled "Preface to the Appendices".

Issues

The Agency is interested in obtaining comments on the issues and problems identified below and any related issues. EPA is not soliciting comments at this time on how the Chemical Use List would be utilized under section 5 and 8, but rather on whether the list satisfies the objectives outlined above (or otherwise identified by a commenter).

(1) Are there uses of chemicals not covered in appendix I? If so, what are these uses? Please describe them, if possible, in terms of a "function" and an "application", and provide a suitable brief statement describing each such use.

(2) Are the uses in appendix I clearly understandable? How can the definitions of the function terms be improved?

(3) Are any uses cited in appendix I so ambiguous that a given use might fall into more than one function/application combination? How can any such ambiguity be resolved?

(4) To what extent, if any, should the Chemical Use List be changed by modifying, aggregating, or expanding the existing uses?

(5) Can this list be used by persons with only a moderate technical background to easily and accurately determine how to classify a chemical use?

Preface to the Appendices

Three appendices are attached. Appendix I is the Chemical Use List. Each use on the list is a combination of a function and an application component as described in the text. The list is organized on the basis of a lexical ordering of the numerical function codes. The number of digits in the code for a function is related to the degree of specificity of the function within a general category, three-digit codes represent the most general function categories and four digits the most specific. For example, the function "ultraviolet absorbents" whose code is 0032 is in the more general category of "absorbents" 003.

For each function component the associated application components are also lexically ordered by increasing numerical value of their numerical codes. In some instances, the roman numeral I is used in the "application component" column of appendix I to represent a function that is utilized as an application component. Similar to the function component codes, application component codes also represent the degree of specificity of the application within a general category. Two digits in the application code represents the most general categorization and five digits the most specific. For example, associated with the function 0032 "ultraviolet absorbents" are two applications, "plastic forming compounds" I304 and "miscellaneous fabricated plastic products" 070. The code I304 represents a function that in this instance is also an application, 304 is the function component code for "plastic forming compounds". By convention, all "I" codes will be listed first.

Appendix II is an alphabetical listing of all the function components of the chemical substance uses that are contained in appendix I. Appendix II also contains illustrative definitions for the listed functions and their associated codes. The application components of the uses of substances listed in appendix I were selected from the very much more detailed classificatory array of application terms given in appendix III. These applications are also listed by a lexical ordering of the numerical codes.

To utilize the appendices for classifying chemical substances, it may be helpful to use appendix II initially to find an appropriate function for the chemical substance to be classified. Appendix II also has the numerical function code listed with each function. This code can easily be found in the lexical ordering of the function component codes in appendix I. The appropriate application component code if listed, in combination with the function component code will determine the use code for the chemical substance. For example, if the chemical substance N,N'-Diphenylethylenediamine, which is used in the rubber industry as an oxygen inhibitor, were to be classified, the alphabetical listing in appendix II lists the function "oxygen inhibitors" with a numerical code of 293. Function 293 has associated with it in appendix I three applications, one of which is "plastic and rubber materials and synthetics" which has a numerical code of 21. Therefore, this chemical substance has its use coded 293-21.

In some cases, the application components listed with a function may not include the specific application for a particular chemical substance or the application may not be understood just from its listing in appendix I. Appendix III has been included in this notice so that the meaning of an application term in the Chemical Use List will be understandable from a consideration of its position in the hierarchy. Those who study and respond to this notice will also find appendix III useful in selecting appropriate application terms that must be associated with a function term but has not been included in the Chemical Use List. Some of the applications in appendix II are marked with asterisks (*); those that are marked represent applications which are listed at least once in appendix I. This will aid in determining the appropriate degree of specificity for an application term that does not appear in the list of applications for a function and, therefore, would need to be added. The hierarchy of appendix III may help respondents discover cases where it would appear that two or more terms could be combined into an inclusive term or a greater degree of specificity for certain terms is needed. Persons responding should bring these to the attention of EPA with a statement that supports each suggestion.

Dated: July 17, 1978.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

APPENDIX I.—*Chemical use list, function/application use term combinations*

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
001	Ablatives	1705	Rocket warheads and explosive components.
		281	Guided missiles and space vehicles and parts.
002	Abrasives	03200	Carpentry.
		0323	Masonry, stonework, tile setting, and plastering.
		0325	Painting, paperhanging, and decorating.
		06	Fabricated metal products.
		10	Furniture and fixtures.
		113	Ophthalmic goods.
		114	Optical instruments and lenses.
		145	Metalworking machinery.
		164	Jewelry and silverware.
		25104	Scouring cleansers and presoaks.
		25114	Metal polish.
		2640	Abrasive products
0020	Blasting abrasives	04003	Office and public building cleaning and maintenance.
		06	Fabricated metal products.
		0645	Surface cleaning and conditioning.
0021	Grinding, lapping and polishing abrasives.	03200	Carpentry.
		0323	Masonry, stonework, tile setting, and plastering.
		0325	Painting, paperhanging, and decorating.
		06	Fabricated metal products.
		145	Metalworking machinery.
		164	Jewelry and silverware.
003	Absorbents	02	Chemicals.
		04030	Electric power generation, transmission, and distribution.
		04031	Gas transmission and distribution.
		154	Oil and gas extraction.
0030	Gas absorbents	02	Chemicals.
		04030	Electric power generation, transmission, and distribution.
		04031	Gas transmission and distribution.
		154	Oil and gas extraction.
0031	Liquid absorbents	0400	Cleaning and maintenance.
		0406	Research and development.
0032	Ultraviolet absorbents	I304	Plastic-forming compounds.
		070	Miscellaneous fabricated plastic products.
004	Accelerators	I327	Rubber-forming compounds.
		071	Miscellaneous fabricated rubber products.
		073	Rubber and plastic footwear.
		074	Rubber and plastic hose and belting.
		075	Tires and inner tubes.
007	Activators	I381	Vulcanizing agents.
		211	Natural rubber.
		213	Plastic materials and resins.
		214	Synthetic rubber.
008	Adhesion promoters	I009	Adhesives.
		071	Miscellaneous fabricated rubber products.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		075	Tires and inner tubes.
009	Adhesives	03	Construction.
		042	Repair work.
		0702	Laminated plastic sheet, rod, and tube.
		071	Miscellaneous fabricated rubber products.
		075	Tires and inner tubes.
		08	Fabricated textile products.
		10	Furniture and fixtures.
		121	Leather and fur products.
		132	Millwork, plywood and structural members.
		133	Mirror and picture frames.
		135	Prefabricated wood buildings.
		138	Wood containers.
		19	Paper and allied products.
		2301	Bookbinding.
		2730	Coated fabrics, except rubberized.
		2735	Nonwoven fabrics and products.
012	Adsorbents	02	Chemicals.
		0400	Cleaning and maintenance.
		0401	Commercial testing.
		0406	Research and development.
		04120	Drycleaning and dyeing.
		110	Enginering and scientific instruments.
		1484	Refrigeration, air-conditioning and heating equipment.
		1490	Chemical manufacturing and petroleum refining machinery.
		201	Petroleum cracking and other catalytic processes.
		203	Petroleum treatment.
		204	Waste oil recovery.
013	Aerating agents	02	Chemicals.
		0407	Sewerage treatment and refuse disposal.
014	Aerosol propellants	I264	Lachrymators.
		I309	Prespotting agents (drycleaning).
		030	Building construction.
		0325	Painting, paperhanging, and decorating.
		04001	Dwelling cleaning and maintenance.
		04002	Hospital cleaning and maintenance.
		04003	Office and public building cleaning and maintenance.
		04004	Service station cleaning and degreasing.
		0402	Disinfecting and exterminating.
		0413	Lodging.
		0420	Electrical repair work.
		0421	Furniture repair and refinishing work.
		0641	Coating.
		18	Paint and allied products.
		2511	Polishes and related products.
		2512	Specialty cleaners.
015	Algicides	04005	Swimming pool cleaning and maintenance.
		0408	Water supply.
		192	Paper mill products.
		195	Pulp mill products.
021	Animal repellents	0123	Horticultural specialties production.
		04001	Dwelling cleaning and maintenance.
		041	Personal applications.
029	Antiblocking agents	I304	Plastic-forming compounds.
		213	Plastic materials and resins.
030	Anticaking agents	I1331	Pigments.
		I206	Explosives.
		I210	Fertilizer conditioners.
		151	Bituminous coal and lignite mining.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		15304	Rock salt mining.
034	Anticracking agents	I327	Rubber-forming compounds.
035	Anticratering agents	0640	Brazing, welding, and soldering.
036	Anticrock agents	2702	Plain dyed and finished fibers, yarn and fabrics.
041	Antifelting agents	270	Finished textile products.
045	Antiflooding agents	I304	Plastic-forming compounds.
		18	Paint and allied products.
046	Antiflume agents	210	Callulosic manmade fibers.
		212	Noncellulosic organic fibers.
		2702	Plain dyed and finished fibers, yarn and fabrics.
047	Antifogging agents	I304	Plastic forming compounds.
		0709	Unsupported plastic film, sheet, rod, and tube.
		1151	Silver halide photographic films, papers, and plates.
		1153	Photographic processing.
048	Antifouling agents	200	Petroleum blending and compounding.
049	Antifreezes	0321	Concrete work.
		1490	Chemical manufacturing and petroleum refining machinery.
		280	Aircraft and parts.
		282	Miscellaneous transportation equipment.
		283	Motor vehicles and equipment.
		284	Motorcycles, bicycles, and parts.
056	Antiknock agents	I233	Fuels.
069	Antipilling agents (textile technology).	270	Finished textile products.
		272	Knitting mill products.
070	Antiplasticizers	21	Plastic and rubber materials and synthetics (not fabricated).
071	Antiprotozoal agents		
0710	Amebicides	04080	Water purification.
075	Antisagging agents	18	Paint and allied products.
076	Antiscaling agents	221	Heat treated metals.
		228	Steel mill products.
077	Antiscorching agents	I327	Rubber-forming compounds.
079	Antiseptics	25123	Room deodorizers.
		25126	Toilet bowl cleaners and drain pipe solvents.
		25127	Wallpaper, window shade, and wall cleaners.
081	Antisettling agents	I137	Sealants.
		18	Paint and allied products.
		213	Plastic materials and resins.
082	Antiskid agents (paper technology).	192	Paper mill products.
		195	Pulp mill products.
083	Antiskinning agents	0404	Firefighting and prevention (building and general).
084	Antislip finishing agents	270	Finished textile products.
086	Antistaining agents	270	Do.
087	Antistatic agents	21	Plastic and rubber materials and synthetics (not fabricated).
		27	Textile mill products.
088	Antitack agents	I304	Plastic-forming compounds.
		0701	Industrial plastic products.
		0709	Unsupported plastic film, sheet, rod, and tube.
096	Bactericides	12441	Coolants.
		04005	Swimming pool cleaning and maintenance.
		18	Paint and allied products.
		19	Paper and allied products.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		21	Plastic and rubber materials and synthetics (not fabricated).
097	Bacteriostats	I233	Fuels.
		04002	Hospital cleaning and maintenance.
		04003	Office and public building cleaning and maintenance.
		04004	Service station cleaning and degreasing.
		2510	Detergents, soaps and disinfectants.
098	Binders	1524	Iron ore mining.
		222	Iron and steel foundry products.
		224	Nonferrous foundry products.
		27	Textile mill products.
099	Bleaches	19	Paper and allied products.
		25104	Scouring cleansers and presoaks.
		25121	Laundry and ironing aids.
		2700	Bleached and white finished fibers, yarn and fabrics.
100	Bleaching assistants	04122	Laundering.
		19	Paper and allied products.
		2700	Bleached and white finished fibers, yarn, and fabrics.
101	Bloom inhibitors	I327	Rubber-forming Compounds
		071	Miscellaneous fabricated rubber products.
		214	Synthetic rubber.
102	Blowing agents	0700	Foamed plastic products.
		0718	Sponge and foam rubber goods.
1020	Air entraining agents	0321	Concrete work.
		0700	Foamed plastic products.
		0718	Sponge and foam rubber goods.
		260	Concrete, gypsum, and plaster products.
103	Bluing agents	04122	Laundering.
		19	Paper and allied products.
		2700	Bleached and white finished fibers, yarn, and fibrics.
104	Boil-off assistants (textile technology).	2700	Bleached and white finished fibers, yarn, and fabrics.
		2738	Scouring and combing mill products.
105	Bright dips	0422	Replating work.
		0641	Coating
106	Brighteners (electroplating).	I304	Plastic-forming compounds.
		0701	Industrial plastic products.
		0706	Plastic packaging and shipping containers.
108	Carboninizing agents	2738	Scouring and combing mill products.
110	Carriers	I112	Catalysts.
		021	Industrial organic chemicals.
		201	Petroleum cracking and other catalytic processes.
1100	Dye carriers	2702	Plain dyed and finished fibers, yarn and fabrics.
		2703	Printed and finished fabrics.
112	Catalysts	021	Industrial organic chemicals.
		201	Petroleum cracking and other catalytic processes.
		21	Plastic and rubber materials and synthetics (not fabricated).
		283	Motor vehicles and equipment.
114	Caulking compounds	03	Construction.
		042	Repair work.
118	Chain extenders (polymerization).	212	Noncellulosic organic fibers.
		213	Plastic materials and resins.
119	Chain stoppers (polymerization).	212	Noncellulosic organic fibers.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
120	Chain transfer agents	212	Noncellulosic organic fibers.
		213	Plastic materials and resins.
		214	Synthetic rubber.
121	Chemical intermediates	02	Chemicals.
1210	Inorganic intermediates.	020	Industrial inorganic chemicals.
1211	Organic intermediates.	021	Industrial organic chemicals.
		0212	Reagent and high purity grade chemicals.
1212	Polymerization intermediates.	21	Plastic and rubber materials and synthetics (not fabricated).
127	Clarifiers	02	Chemicals.
		0406	Research and development.
		0407	Sewerage treatment and refuse disposal.
		04080	Water purification.
		04081	Water softening.
		19	Paper and allied products.
129	Cloud point depressants	200	Petroleum blending and compounding.
130	Coagulants	0407	Sewerage treatment and refuse disposal.
		04080	Water purification.
		192	Paper mill products.
		195	Pulp mill products.
		211	Natural rubber.
		214	Synthetic rubber.
		2737	Processed textile waste.
131	Coalescents	0407	Sewerage treatment and refuse disposal.
		204	Waste oil recovery.
132	Coatings	0325	Painting, paperhanging, and decorating.
		042	Repair work.
		0641	Coating.
		19	Paper and allied products.
		2300	Book gilding, bronzing, etc.
		265	Pottery and related products.
133	Coloring agents		
1330	Dyes	I304	Plastic-forming compounds.
		07	Fabricated rubber and plastic products.
		1151	Silver halide photographic films, paper, and plates.
		1153	Nonsilver halide photo films, papers, and plates.
		12	Leather and fur.
		13	Lumber and wood products.
		1680	Art supplies.
		19	Paper and allied products.
		24	Printing ink.
		251	Polishes and sanitizing agents.
		266	Pressed or blown glass and glassware.
		2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
1331	Pigments	I304	Plastic-forming compounds.
		I327	Rubber-forming compounds.
		07	Fabricated rubber and plastic products.
		163	Hard surface floor, wall, and counter coverings.
		1680	Art supplies.
		18	Paint and allied products.
		19	Paper and allied products.
		21	Plastic and rubber materials and synthetics (not fabricated).
		24	Printing inks.
		265	Pottery and related products.
		266	Pressed or blown glass and glassware.
		267	Structural clay products.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		2703	Printed and finished fabrics.
136	Correction fluids (paper)	1913	Envelope and stationery products.
137	Corrosion inhibitors	I303	Pickling inhibitors.
		0645	Surface cleaning and conditioning.
		1450	Automotive maintenance equipment.
		1484	Refrigeration, air-conditioning, and heating equipment.
		28	Transportation equipment and facilities.
138	Coupling agents	I1330	Dyes.
		1151	Silver halide photographic films, paper, and plates.
		1153	Photographic processing.
		0211	Cyclic chemicals.
		21	Plastic and rubber materials and synthetics (not fabricated).
139	Crabbing assistants (textile technology).	270	Finished textile products.
140	Creaseproofing agents	2701	Other finished fibers, yarn, and fabrics.
141	Crosslinking agents	I307	Polymerization additives.
		21	Plastic and rubber materials and synthetics (not fabricated).
		2701	Other finished fibers, yar, and fabrics.
142	Curing agents	21	Plastic and rubber materials and synthetics (not fabricated).
		260	Concrete, gypsum, and plaster products.
		270	Finished textile products.
143	Currying agents (leather processing).	120	Leather and fur finishing.
144	De-inkers	195	Pulp mill products.
145	Deaerating agents	I304	Plastic-forming compounds.
		04030	Electric power generating, transmission, and distribution.
		04080	Water purification.
146	Deasphalting agents	203	Petroleum treatment, except blending, cracking, and distillation.
147	Dechlorinating agents	04122	Laundering.
		195	Pulp mill products.
		2700	Bleached and white finished fibers, yarn, and fabrics.
1470	Antichlors	04122	Laundering.
		195	Pulp mill products.
		2700	Bleached and white finished fibers, yarn, and fabrics.
149	Decontaminants		
1490	Mercury decontaminants.	02	Chemicals.
		0407	Sewerage treatment and refuse disposal.
1491	Poison gas decontaminants.	17	Ordnance and accessories.
1492	Radioactivity decontaminants.	04030	Electric power generation, transmission, and distribution.
150	Defoamers	021	Industrial organic chemicals.
		0407	Sewerage treatment and refuse disposal.
		04080	Water purification.
		192	Paper mill products.
		195	Pulp mill products.
151	Defoliants	012	Crop production.
		014	Forestry.
		0311	Highways and streets.
		1700	Biological and chemical warfare agents.
153	Degreasers	0645	Surface cleaning and conditioning.
		1450	Automotive maintenance equipment.
		25103	Metal cleaners.
		2870	Transportation equipment service and repair facilities.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
154	Degummers	276	Yarn and thread mill products.
155	Dehairing agents (leather processing).	122	Leather and fur tanning.
156	Dehumidifiers	143	Electronic components and accessories.
		1440	Air and gas compressors and vacuum pumps.
		1484	Refrigeration, air-conditioning, and heating equipment.
157	Dehydrating agents	02	Chemicals.
		200	Petroleum blending and compounding.
		203	Petroleum treatment, except blending, cracking, and distillation.
158	Deicers	031	Construction, except building construction.
		280	Aircraft and parts.
		283	Motor vehicles and equipment.
		285	Railroad cars and equipment.
		286	Ships and boats.
		287	Transportation facilities.
159	Deionizers	02	Chemicals.
		04030	Electric power generation, transmission, and distribution.
		04080	Water purification.
		04081	Water softening.
160	Delignification agents	195	Pulp mill products.
161	Delustrants	270	Finished textile products.
		276	Yarn and thread mill products.
162	Demineralizers	02	Chemicals.
		04030	Electric power generation, transmission, and distribution.
		04081	Water softening.
163	Demulsifiers	021	Industrial organic chemicals.
		0407	Sewerage treatment and refuse disposal.
		204	Waste oil recovery.
164	Denaturants	021	Industrial organic chemicals.
166	Deodorants	25123	Room deordorizers.
		25126	Toilet bowl cleaners and drain pipe solvents.
1660	Masking agents (odors).	02	Chemicals.
		25123	Room deodorizers.
167	Dipitching agents	195	Pulp mill products.
169	Descaling agents	221	Heat treated metals.
		228	Steel mill products.
170	Desiccants	0212	Reagent and high purity grade chemicals.
		143	Electronic components and accessories.
		147	Office and computing machines.
		1484	Refrigeration, air-conditioning and heating equipment.
171	Desizing agents	0412	Laundry and drycleaning.
		273	Miscellaneous textile products.
172	Detackifiers	072	Reclaimed rubber.
		214	Synthetic rubber.
173	Detergent builders	2510	Detergents, soaps, and disinfectants.
		2512	Specialty cleaners.
174	Developers	1151	Silver halide photographic films, papers, and plates.
		1153	Photographic processing.
1740	Dye developers	2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
175	Devulcanizing agents	072	Reclaimed rubber.
		214	Synthetic rubber.
179	Discharge printing agents	2703	Printed and finished fabrics.
180	Disinfectants	0400	Cleaning and maintenance.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		0402	Disinfecting and exterminating.
		2510	Detergents, soaps, and disinfectants.
185	Drawing compounds	063	Metal forgings and stamping.
		0643	Machining.
186	Driers	180	Exterior oil base paint products.
		182	Industrial product finishes, except lacquer.
		183	Interior oil base paint products.
		186	Putty and allied products.
		24	Printing inks.
187	Drilling mud conditioners	I188	Drilling muds.
188	Drilling muds	154	Oil and gas extraction.
189	Dry strength agents	1915	Sanitary paper products.
		1924	Packaging and industrial converting paper.
		193	Paperboard containers and boxes.
		194	Paperboard mill products.
190	Dust control agents	02	Chemicals.
		0311	Highway and streets.
		0400	Cleaning and maintenance.
		0413	Lodging.
		2643	Ground or treated minerals.
191	Dusting agents (rubber technology).	071	Miscellaneous fabricated rubber products.
192	Dye reserving agents	2702	Plain dyed and finished fabrics.
		2703	Printed and finished fabrics.
193	Dye retardants	2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
194	Dye retention aids	2703	Do.
195	Electrolytes	020	Industrial inorganic chemicals.
		0641	Coating.
1950	Peptizing agents	211	Natural rubber.
		214	Synthetic rubber.
196	Eluting agents	02	Chemicals.
		04011	Chemical and medical testing.
		04080	Water purification.
		04081	Water softening.
		152	Metal mining.
199	Entraining agents	02	Chemicals.
200	Enzymes	25105	Soap bars and flakes, and soap and detergent powders.
202	Etching agents	1436	Semiconductors and related solid state devices.
		2311	Lithographic platemaking.
		2312	Photoengraving.
203	Evaporation control agents	02	Chemicals.
		0408	Water supply.
		20	Petroleum refining.
205	Explosion inhibitors	02	Chemicals.
		17	Ordnance and accessories.
		20	Petroleum refining.
206	Explosives		
2060	Blasting explosives	030	Building construction.
		031	Construction, except nuclear.
		15	Mining.
2061	Propellant explosives	170	Ammunition, except nuclear.
207	Extenders	I304	Plastic-forming compounds.
		I327	Rubber-forming compounds.
		18	Paint and allied products.
		265	Pottery and related products.
		267	Structural clay products.
210	Fertilizer conditioners	I211	Fertilizers.
211	Fertilizers	012	Crop production.
		014	Forestry.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
212	Fiber forming compounds	210	Cellulosic manmade fibers.
		212	Noncellulosic organic fibers.
213	Fillers (augmentation)	I009	Adhesives.
		I304	Plastic-forming compounds.
		I327	Rubber-forming compounds.
		18	Paint and allied products.
		19	Paper and allied products.
		21	Plastic and rubber materials and synthetics (not fabricated).
		24	Printing inks.
		2510	Detergents, soaps, and disinfectants.
		265	Pottery and related products.
		267	Structural clay products.
214	Fillers (patching)	030	Building construction.
		0320	Carpentry and flooring.
		0325	Painting, paperhanging, and decorating.
		0400	Cleaning and maintenance.
		0421	Furniture repair and refinishing work.
215	Filtration aids	02	Chemicals.
		0407	Sewerage treatment and refuse disposal.
		04080	Water purification.
		195	Pulp mill products.
217	Fire extinguishing agents	01410	Firefighting and prevention (forest).
		0404	Firefighting and prevention (building and general).
220	Flame retardants	070	Miscellaneous fabricated plastic products.
		0718	Sponge and foam rubber goods.
		08	Fabricated textile products.
		2701	Other finished fibers, yarn, and fabrics.
		271	Floor coverings (textile).
221	Flatting agents	18	Paint and allied products.
224	Flocculating agents	0407	Sewerage treatment and refuse disposal.
		04080	Water purification.
		195	Pulp mill products.
		211	Natural rubber.
		213	Plastic materials and resins.
		214	Synthetic rubber.
227	Fluxes		
2270	Brazing fluxes	0640	Brazing, welding, and soldering.
2271	Galvanizing fluxes	0641	Coating.
2272	Soldering fluxes	0326	Plumbing, heating, and air-conditioning work.
		0640	Brazing, welding, and soldering.
2273	Tinning fluxes	0326	Plumbing, heating, and air-conditioning work.
		0640	Brazing, welding, and soldering.
2274	Welding fluxes	0326	Plumbing, heating, and air-conditioning work.
228	Foam inhibitors	I362	Surfactants.
		02	Chemicals.
		0407	Sewerage treatment and refuse disposal.
		0408	Water supply.
		195	Pulp mill products.
230	Formation aids (paper technology).	192	Papermill products.
		193	Paperboard containers and products.
		194	Paperboard mill products.
232	Frothing agents	0404	Firefighting and prevention (building and general).
		0407	Sewerage treatment and refuse disposal.
		152	Metal mining.
		204	Waste oil recovery.
233	Fuels	1444	Industrial furnaces and ovens.
		1484	Refrigeration, air-conditioning, and heating equipment.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		1490	Chemical manufacturing and petroleum refining machinery.
		1494	Foundry and other primary metal machinery.
		28	Transportation equipment and facilities.
234	Fulling agents	275	Weaving mill products.
236	Fungicides	I304	Plastic forming compounds.
		0412	Laundry and drycleaning.
		07	Fabricated rubber and plastic products.
		18	Paint and allied products.
		19	Paper and allied products.
		230	Bookbinding and related operation.
		2510	Detergents, soaps, and disinfectants.
		260	Concrete, gypsum, and plaster products.
237	Fungistats	08	Fabricated textile products.
2370	Mildew preventives	0400	Cleaning and maintenance.
		08	Fabricated textile products.
		230	Bookbinding and related operations.
		2512	Specialty cleaners.
2371	Mold inhibitors	08	Fabricated textile products.
		230	Bookbinding and related operations.
239	Gelling agents	I009	Adhesives.
		I327	Rubber-forming compounds.
		18	Paint and allied products.
		200	Petroleum blending and compounding.
		213	Plastic materials and resins.
241	Greaseproofing agents	1910	Bags, except textile bags.
		19112	Laminated or coated paper rolls and sheets.
		19113	Oiled, waxed, and wax-laminated paper.
		1924	Packaging and industrial converting paper.
		2701	Other finished fibers, yarn, and fabrics.
		271	Floor coverings (textile).
243	Heat sealing agents	I009	Adhesives.
		0709	Unsupported plastic film, sheet, rod, and tube.
		08	Fabricated textile products.
		191	Miscellaneous converted paper products.
		193	Paperboard containers and boxes.
244	Heat transfer agents		
2440	Calefactants	02	Chemicals.
		07	Fabricated rubber and plastic products.
		20	Petroleum refining.
2441	Coolants	064	Metal processing operations.
		221	Heat treated metals
		28	Transportation equipment and facilities.
2442	Refrigerants	02	Chemicals.
		1484	Refrigeration, air-conditioning and heating equipment.
251	Humidity indicators	I157	Dehydrating agents.
		143	Electronic components and accessories.
252	Hydraulic fluids	14	Machinery and equipment.
		22	Primary metals.
2520	Automatic transmission fluids.	14	Machinery and equipment.
		28	Transportation equipment and facilities.
256	Incendiaries	170	Ammunition, except nuclear.
257	Inflating agents (rubber technology).	0700	Foamed plastic products.
		0718	Sponge and foam rubber goods.
259	Insect repellents	041	Personal applications.
2590	Mothproofing agents	04120	Drycleaning and dyeing.
		04123	Rug and upholstery cleaning.0
		080	Apparel.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
260	Insulating compounds	271	Floor coverings (textile)
2600	Acoustical insulating compounds.	030	Building construction.
		144	General industrial machinery.
		145	Metalworking machinery.
		1491	Consturction and related machinery.
2601	Electrical insulating compounds.	030	Building construction.
		142	Electric transmission and distribution equipment.
		1460	Appliance wire and cord and flexible cord sets.
		1461	Electrical industrial appartus.
		1462	Engine electrical equipment.
		147	Office and computing machines.
2602	Heat insulating compounds.	02	Chemicals.
		030	Building construction.
		0403	Electric and gas supply.
		148	Refrigeration and service machinery.
		149	Special industry machinery.
		20	Petroleum refining.
261	Intensifiers	231	Printing operation.
		1153	Photographic processing.
2610	Dye intensifiers	11541	Color film and plates.
		2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
262	Ion exchange compounds	02	Chemicals.
		04030	Electric power generation, transmission and distribution.
		04080	Water purification
		04081	Water softening.
263	Kier assistants (textile technology.	270	Finished textile products.
264	Lachrymators	0405	Law enforcement.
		1700	Biological and chemical warfare agents.
265	Laminating agents	0702	Laminated plastic sheet, rod, and tube.
		132	Millwork, plywood, and structural members.
		19112	Laminated or coated-paper rolls and sheets (packaging applications).
		2730	Coated fabrics, except rubberized.
		2735	Nonwoven fabrics and products.
		2739	Tire cord and fabrics.
266	Laundry sours	04122	Laundering.
		2700	Bleached and white finished fibers, yarn, and fabrics.
269	Leveling agents		
2690	Dye leveling agents	19	Paper and allied products.
		2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
2691	Vulcanization leveling agents.	I381	Vulcanizing agents.
		071	Miscellaneous fabricated rubber products.
271	Lubricant additives	200	Petroleum blending and compounding.
272	Lubricants	14	Machinery and equipment.
		28	Transportation equipment and facilities.
2720	Extreme pressure lubricants.	14	Machinery and equipment.
2721	High temperature lubricants.	1463	Engines and turbines.
2722	Internal lubricants	I304	Plastic forming compounds.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		070	Miscellaneous fabricated plastic products.
273	Markers (textile)	04122	Laundering.
		080	Apparel.
275	Mercerizing agents	2701	Other finished fibers, yarn, and fabrics.
276	Metal conditioners	0641	Coating.
		0645	Surface cleaning and conditioning.
277	Microbiological culture media.	02	Chemicals.
		04011	Chemical and medical testing.
		0407	Sewerage treatment and refuse disposal.
278	Mordants	2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
282	Nucleating agents	02	Chemicals.
283	Nutrient		
2830	Bacteriological nutrients.	02	Chemicals.
		04011	Chemical and medical testing.
		0407	Sewerage treatment and refuse disposal.
284	Obscuring agents	1700	Biological and chemical warfare agents.
285	Odorants	04031	Gas transmission and distribution.
		251	Polishes and sanitizing agents.
286	Oil repellents	19112	Laminated or coated-paper rolls and sheets.
		1925	Special industrial paper.
		2701	Other finished fibers, yarn, and fabrics.
287	Oilness agents	1272	Lubricants.
288	Opacifiers	0641	Coating.
		0709	Unsupported plastic film, sheet, rod, and tube.
		192	Paper mill products.
		262	Flat glass products.
		265	Pottery and related products.
		266	Pressed or blown glass and glassware.
290	Optical brighteners	04122	Laundering.
		18	Paint and allied products.
		19	Paper and allied products.
		2700	Bleached and white finished fibers, yarn and fabrics.
293	Oxidation inhibitors	I1212	Polymerization intermediates.
		200	Petroleum blending and compounding.
		21	Plastic and rubber materials and synthetics (not fabricated).
294	Oxidation-reduction indicators.	0212	Reagent and high purity grade chemicals.
295	Oxidizers	1705	Rocket warheads and explosive components.
		281	Guided missiles and space vehicles and parts.
296	Ozonation inhibitors	I1212	Polymerization intermediates.
		I326	Rubber compounding agents.
		071	Miscellaneous fabricated rubber products.
298	Pearlizing agents	164	Jewelery and silverware.
		18	Paint and allied products.
300	pH control agents	02	Chemicals.
		0407	Sewerage treatment and refuse disposal.
		0408	Water supply.
301	pH indicators	04011	Chemical and medical testing.
302	Pickling agents	0645	Surface cleaning and conditioning.
		1490	Chemical manufacturing and petroleum refining machinery.
		228	Steel mill products.
303	Pickling inhibitors	0645	Surface cleaning and conditioning.
		1490	Chemical manufacturing and petroleum refining machinery.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		228	Steel mill products.
304	Plastic-forming compounds.	070	Miscellaneous fabricated plastic products.
305	Plasticizers	I304	Plastic-forming compounds.
		213	Plastic materials and resins.
308	Polymerization inhibitors	212	Noncellulosic organic fibers.
		213	Plastic materials and resins.
		214	Synthetic rubber.
309	Prespotting agents (drycleaning).	04120	Drycleaning and dyeing.
310	Preservatives	136	Preserved wood.
		1680	Art supplies.
		19	Paper and allied products.
		2301	Bookbinding.
311	Prevulcanization inhibitors.	I326	Rubber compounding agents.
		214	Synthetic rubber.
312	Protective agents	270	Finished textile products.
		2701	Other finished fibers, yarn, and fabrics.
		2738	Scouring and combing mill products.
315	Pulping retention aids	195	Pulp mill products.
316	Radiation protective agents.	0212	Reagent and high purity grade chemicals.
		04011	Chemical and medical testing.
		04014	Radiation detection and dosimetry.
		04030	Electric power generation, transmission, and distribution.
318	Reaction media	02	Chemicals.
319	Reducers (chemical technology).	02	Do.
320	Refining agents (nonpetroleum oils and fats).	093	Fat and oil products (inedible).
321	Reinforcing agents	I327	Rubber-forming compounds.
		07	Fabricated rubber and plastic products.
322	Repulping aids	195	Pulp mill products.
323	Resists	1436	Semiconductors and related solid state devices.
		2312	Photoengraving.
325	Rotproofing agents	2701	Other finished fibers, yarn, and fabrics.
327	Rubber-forming compounds.	071	Miscellanous fabricated rubber products.
		073	Rubber and plastic footwear.
		074	Rubber and plastic hose and belting.
		075	Tires and inner tubes.
328	Rubber reclaiming agents	072	Reclaimed rubber.
329	Rubbing fastness agents (textile technology).	270	Finished textile products.
331	Rust inhibitors	0641	Coating.
332	Rust removers	0645	Surface cleaning and conditioning.
333	Scavengers	220	Blast furnance and electric furnance products.
		222	Iron and steel foundry products.
		223	Metal powders and pastes.
		224	Nonferrous foundry products.
		228	Steel mill products.
335	Scouring agents	2738	Scouring and combing mill products.
336	Scrooping agents	2701	Other finished fibers, yarn, and fabrics.
337	Sealants	03	Construction.
		062	Metal cans and shipping containers.
		28	Transportation equipment and facilities.
338	Semiconductors	1436	Semiconductors and related solid state devices.
339	Sequestrants	012	Crop production.
		0408	Water supply.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
		251	Polishes and samitizing agents.
340	Shrinkage controllers	2701	Other finishes fibers, yarn, and fabrics.
341	Sizes	04122	Laundering.
		2701	Other finished fibers, yarn, and fabrics.
342	Slime preventives	0408	Water supply.
		192	Paper mill products.
		195	Pulp mill products.
344	Soaking agents (textile technology).	2700	Bleached and white finished fibers, yarn, and fabrics.
		2701	Other finished fibers, yarn, and fabrics.
345	Soap builders	2510	Detergents, soaps, and disinfectants.
		2512	Specialty cleaners.
346	Soaping agents (printing and dyed).	2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
347	Soaping-off assistants	2702	Plain dyed and finished fibers, yarn and fabrics.
		2703	Printed and finished fabrics.
348	Softeners	04081	Water softening.
		04122	Laundering.
		270	Finished textile products.
349	Soil conditioners	012	Crop production.
350	Soil release agents	04122	Laundering.
		2701	Other finished fibers, yarn and fabrics.
351	Soil retardants	08	Fabricated textile products.
		2701	Other finished fibers, yarn, and fabrics.
352	Solvents	I009	Adhesives.
		02	Chemicals.
		0406	Research and development.
		0412	Laundry and drycleaning.
		042	Repair work.
		0421	Furniture repair and refinishing work.
		07	Fabricated rubber and plastic products.
		154	Oil and gas extraction.
		1680	Art supplies.
		18	Paint and allied products.
		20	Petroleum refining.
		21	Plastic and rubber materials and synthetics (not fabricated).
		231	Printing operations.
		24	Printing inks.
		2511	Polishes and related products.
353	Spreading agents	I299	Pesticides.
		012	Crop production.
354	Stablizers		
3540	Emulsion stablizers	I009	Adhesives.
		0404	Firefighting and prevention (building and general).
		213	Plastic materials and resins.
		214	Synthetic rubber.
		2511	Polishes and related products.
		2730	Coated fabrics, except rubberized.
3541	Foam stabilizers	0404	Firefighting and prevention (building and general)
		0700	Foamed plastic products.
		0718	Sponge and foam rubber goods.
3542	Heat stabilizers	I304	Plastic-forming compounds.
		0701	Industrial plastic products.
		0709	Unsupported plastic film, sheet, rod, and tube.
355	Stains	04011	Chemical and medical testing.
		10	Furniture and fixtures.
		120	Leather and fur finishing.
		1805	Stains (exterior).
		1831	Stains (interior).

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
356	Starch improvers	2701	Other finished fibers, yarn, and fabrics.
357	Stiffening agents	I327	Rubber-forming compounds.
		07	Fabricated rubber and plastic products.
358	Strippers		
3580	Dye strippers	0410	Beauty and barber shop services.
		04120	Drycleaning and dyeing.
		2702	Plain dyed and finished fibers, yarn, and fabrics.
3581	Paint strippers	0325	Painting, paperhanging, and decorating.
		0421	Furniture repair and refinishing work.
		0645	Surface cleaning and conditioning.
3582	Wax strippers	0400	Cleaning and maintenance.
		0642	Engraving and etching, except for printing.
		0645	Surface cleaning and conditioning.
		1436	Semiconductors and related solid state devices.
		2312	Photoengraving.
359	Structural binders	0321	Concrete work.
		0323	Masonry, stonework, tile setting, and plastering.
360	Structural components	03	Construction.
		061	Fabricated structural metal products.
362	Surfactants		
3620	Detergents	0400	Cleaning and maintenance.
		0412	Laundry and drycleaning.
		251	Polishes and sanitizing agents.
		270	Finished textile products.
3621	Dispersants	I133	Coloring agents.
		18	Paint and allied products.
		192	Paper mill products.
		213	Plastic materials and resins.
		214	Synthetic rubber.
		270	Finished textile products.
3622	Emulsifiers	I133	Coloring agents.
		181	Exterior water base paint products.
		184	Interior water base paint products.
		1911	Coated and glazed paper products.
		213	Plastic materials and resins.
		214	Synthetic rubber.
		2510	Detergents, soaps, and disinfectants.
		2511	Polishes and related cleaners.
		270	Finished textile products.
3623	Flotation agents	152	Metal mining.
3624	Penetrants	270	Finished textile products.
3625	Rinse aids	04122	Laundering.
		270	Finished textile products.
3626	Soil suspending agents.	2510	Detergents, soaps, and disinfectants.
3627	Wetting agents	I210	Fertilizer conditioners.
		I299	Pesticides.
		120	Leather and fur finishing.
		122	Leather and fur tanning.
		19	Paper and allied products.
		24	Printing inks.
		270	Finished textile products.
363	Swelling agents	072	Reclaimed rubber.
364	Tackifiers	I009	Adhesives.
		072	Reclaimed rubber.
365	Tanning agents	122	Leather and fur tanning.
3650	Bates	122	Do.
366	Tar removers	0400	Cleaning and maintenance.
		0412	Laundry and drycleaning.
367	Tarnish removers	0645	Surface cleaning and conditions.
		164	Jewelry and silverware.

APPENDIX I.—*Chemical use list, function/application use term combinations*—Continued

[In increasing lexical order of function and application numbers]

Function component		Application component	
Function code No.	Descriptor	Application code No.	Descriptor
368	Textile conditioners	210	Cellulosic manmade fibers.
		212	Noncellulosic organic fibers.
		270	Finished textile products.
369	Texturizers	2701	Other finished fibers, yarn, and fabrics.
370	Thickeners	0407	Sewerage treatment and refuse disposal.
		152	Metal mining.
		153	Nonmetallic mineral mining and quarrying, except fuels.
		18	Paint and allied products.
		200	Petroleum blending and compounding.
		270	Finished textile products.
		2730	Coated fabrics, except rubberized.
372	Toners	1151	Silver halide photographic films, papers, and plates.
		1152	Nonsilver halide photographic films, plates, paper, including electrophotography.
		24	Printing inks.
		2702	Plain dyed and finished fibers, yarn, and fabrics.
		2703	Printed and finished fabrics.
379	Vat printing assistants	2703	Do.
380	Viscosity adjustors	I304	Plastic-forming compounds.
		0641	Coating.
		0701	Industrial plastic products.
		167	Toys and sporting goods.
3800	Thixotropic agents	18	Paint and allied products.
		200	Petroleum blending and compounding.
		24	Printing inks.
3801	Viscosity depressants	I304	Plastic-forming compounds.
		0641	Coating.
		200	Petroleum blending and compounding.
3802	Viscosity improvers	200	Do.
381	Vulcanizing agents	I327	Rubber-forming compounds.
		211	Natural rubber.
		214	Synthetic rubber.
382	Water repellents	0801	Miscellaneous, apparel and accessories.
		120	Leather and fur finishing.
		1910	Bags, except textile bags.
		1911	Coated and glazed paper products.
		2701	Other finished fibers, yarn, and fabrics.
383	Waterproofing agents	0801	Miscellaneous, apparel and accessories.
		120	Leather and fur finishing.
		1910	Bags, except textile bags.
		1911	Coated and glazed paper products.
		2701	Other finished fibers, yarn, and fabrics.
384	Weighing agents	2701	Other finished fibers, yarn, and fabrics.
385	Wet strength agents	1912	Die-cut paper and board products.
		1914	Pressed and molded pulp goods.
		1915	Sanitary paper goods.

APPENDIX II.—*Alphabetical list of chemical use functions (with associated code numbers and illustrative definitions)*

Abherents
See: Lubricants 272

Ablatives 001
Materials that are applied as a layer to a substrate, usually metal, to protect it from heat by dissipating the heat through the process of erosion, melting, or vaporization of the material.

Abrasives 002
Materials used for grinding, cleaning, polishing, or wearing down the surfaces of products made of metal, glass, wood, plastics, stone, or other substances.
See also: Scouring agents 335

Absorbents 003
Materials that assimilate another substance by various means such as: capillary, osmotic, solvent, or chemical action frequently used for the purposes of separation or purification.

Absorbers
See: Absorbents 003

Accelerators 004
Materials that increase the velocity of a chemical reaction, frequently acting in conjunction with a catalyst or curing agent, and may additionally improve the physical properties of the reaction products.
See also: Catalyst 112

Acid pickling indicators 005

Acoustical insulating compounds 2600
Materials that conduct sound poorly, thus acting as a barrier to sound.

Activators 007
Substances that render a material or a system reactive, used in processes such as polymerization or vulcanization. (Other uses include substances employed in the flotation process, for the impurity atoms in luminescent solids, for the substances that change proenzymes into enzymes.)
See also: Catalysts 112

Additives
See specific category: e.g., Driers, Extenders, Fillers, Opacifiers, Plasticizers, Preservatives.
Adhesion promoters 008
Materials that increase the adhesive properties of other compounds often applied to the surface(s) before coating with the adhesives.
Adhesive fillers
See: Fillers (augmentation) 213
Adhesive Tackifiers
See: Tackifiers 374
Adhesives 009
Substances that are capable of bonding materials together by surface attachment.
See also: Binders 098, Heat sealing agents 243, Sealants 337, Structural binders 359
Adsorbents 012
Materials that hold or concentrate the molecules of other substances (solids, liquids, gases, or solutes) upon their surfaces.
See also: Deodorants 166, Desiccants 170
Aerating agents 013
See: Air entraining agents 1020
Aerosol propellants 014
Compressed gases within which liquid or solid particles are suspended and carried from a container upon release of the internal pressure and expansion of the gas through the valve of the container.
Air entraining agents 1020
Materials that aid in the entrapment of air in a mixture.
See also: Aerating agents 013, Flocculating agents 224
Algicides 015
Chemicals used to kill algae.
Animal repellents 021
Chemicals that drive animals away from the area of application.
Antibacterials
See: Bactericides 096, Bacteriostats 097
Antiblocking agents 029
Materials that are added to plastic resin formulations to (1) prevent the final product from adhering to itself or other materials, or (2) prevent the undesired adhesion of granular particles which often occurs with damp powders or plastic pellets in storage bins or during movement through conduits.
Antibloom agents
See: Bloom inhibitors 101
Anticaking agents 030
Materials that prevent ground materials from sticking or caking during transfer, storage, or use.
Antichlors 1470
Chemicals used to destroy the residual or free chlorine on textile products or wood pulp after bleaching.
Anticorrosion agents
See: Corrosion inhibitors 137
Anticracking agents 034
Materials added to rubber to prevent cracking (sun checking) of the finished product.
Anticratering agents 035
Materials that, when added to paint or coating formulations, prevent "fish eyes" or the "alligatoring" of the dried surface.
Anticreasing agents
See: Creaseproofing agents 140
Antifelting agents 041
Materials that are applied to textile fibers to prevent their "felting" or forming a mat during processing.
Antiflooding agents 045
Materials that prevent color separation in paints and allied products.
Antifume agents 046
Materials that prevent deterioration of textiles by atmospheric fumes.
Antifoaming agents
See: Defoamers 150
Antifogging agents 047
Materials that are, for example: (1) added to plastic forming compounds to prevent discoloring of the final product upon aging, (2) used to prevent the condensation of moisture on glass and other transparent materials, or (3) used in image forming systems to prevent the development of "non-image" density.
Antifouling agents 048
Materials added to petroleum products to prevent the formation of sludge.
Antifreezes 049
Materials that are added to liquids to lower the freezing point.
Antifrosting agents
See: Anticracking agents 034
Antifrothing agents
See: Defoamers 150
Antiknock agents 056
Chemicals that are added to fuels to prevent spontaneous deterioration in internal combustion engines.
Antimist agents
See: Antifogging agents 047
Antioxidants
See: Oxidation inhibitors 293
Antiozonants
See: Ozonation inhibitors 296
Antipilling agents (textile technology) 069
Chemicals that are added to textiles during processing of finishing that reduce the tendency of the fibers to "ball up" (pill).
Antiplasticizers 070
Chemicals added to plastic formulations to prevent softening or flexibility of the plastic.
Antirusting agents
See: Rust inhibitors 331
Antisagging agents 075
Materials added to paints or allied products to prevent "alligatoring".
Antiscaling agents 076
Any chemical or chemical solution which prevents scale from forming or removes scale from metal surfaces.
See also: Descaling agents 169
Antiscorching agents 007
Chemicals that are added to rubber formulations to prevent prevulcanization in the mold.
Antiseptics 079
Substances used to retard or stop the growth of microorganisms on or in the bodies of animals.
See also: Disinfectants 180
Antisettling agents 081
Materials that are added to paints, sealants, adhesives, plastic emulsions, and lattices to preserve the dispersed state of the formulation.
Antiskid agents (paper technology) 082
Materials that are added to paper during or after the formation of paper stock to prevent slippage of bags, cartons, or boxes when stacked.
Antislime agents
See: Slime preventatives 342
Antislip finishing agents 084
Materials that are applied to textile fibers or yarns to prevent slippage during weaving.
Antistaining agents 086
Materials added to any manufacturing or processing step to impart stain resistance to or eliminate staining of the finished product.
See also: Soil retardants 351
Antistatic agents 987
Materials used with textiles, plastics, paper products, wax polishes, etc. to reduce static electrical charges by allowing the charge to leak off the substance.
Antitack agents 088
Chemicals that, when added at any processing stage, will reduce or eliminate stickiness or adhesiveness of a product.
Assistants
See: Bleaching assistants 100, Boil-off assistants (textile techology) 104, Crabbing assistants (textile technology) 139, Dye retention aids 194, Filtration aids 215, Formation aids (paper technology) 230, Formulation aids 231, Kier assistants (textile technology) 263, Pulping retention aids 315, Repulping aids 322, Rinse aids 3625, Soaping-off assistants 347, Vat printing assistants 379,
Automatic transmission fluids 2520
Non-corrosive fluids used as a fluid coupling to transmit power between an engine or motor drive and driven equipment.
Bactericides 096
Chemicals used to destroy bacteria.
See also: Antibiotics 028, Bacteriostats 097
Bacteriocidal cleaners 0960
Bacteriological culture Media
See: Microbiological culture media 277
Bacteriological nutrients 2830
Substances that are necessary for the growth of bacteria.
See also: Microbiological culture media 277
Bacteriostats 097
Chemicals that inhibit bacterial growth.
See also: Antibiotics 028, Bactericides 096
Bates 3650
Materials used in the leather industry to remove lime from skins and to make them soft and flaccid before tanning by bringing the collagen into a flaccid or unswollen condition.
Binders 098
Resins or other cement-like materials used to hold particles together and provide mechanical strength or to ensure uniform consistency, solidification, or adhesion to a surface coating.
See also: Adhesives 009, Structural binders 359
Biological process catalysts 112
See: Enzymes 200, Catalysts 112
Biological stains
See: Stains 355
Blasting abrasives 0020
Materials entrained in a high velocity stream of air used to clean or finish surfaces.
Blasting explosives 2060
Chemical compounds, usually containing nitrogen, that detonate as a result of shock or heat.
Bleaches 099
Chemicals that whiten or decolorize materials by oxidation or reduction.
See also: Bluing agents 103, Optical brighteners 290
Bleaching assistants 100
Chemicals used in a bleach bath to promote penetration by the bleach and improve bleaching action.
Bloom inhibitors 101
Materials that (1) prevent the migration of an ingredient of a mixture to the surface, and (2) eliminate the fluoresence of oils.

Blowing agents 102
Chemicals added to other materials to produce a foam or a cellular structure by the evolution and the expansion of gases.
See also: Inflating agents (rubber technology) 250
Blowmolding compounds
See: Plastic forming compounds 304
Bluing agents 103
Substances that whiten paper textiles or other organic materials by neutralizing the yellow cast.
See also: Optical brighteners 290, Bleaches 099
Boil-off assistants (textile technology) 104
Chemicals that remove soil resulting from processing, from textile products.
Bonding agents
See: Adhesives 009
Booster explosives
See: Blasting explosives 2060
Brazing fluxes 2270
Materials used to remove oxides from, and clean the surface of metals to facilitate their joining by fusion.
Bright dips 105
A chemical or mixture of chemicals, into which metals are immersed to produce a bright, clean surface.
Brighteners
See: Brighteners (electroplating) 106, Optical brighteners 290
Brighteners (electroplating) 106
(1) Agents added to formulated mixtures, textiles, paper, etc. that effect a whitening of yellow, brown, or gray tones by converting ultraviolet radiation into blue and green light. (2) Chemicals added to an electroplating both to yield a smoother, brighter surface.
See also: Optical brighteners 290
Briquette binders
See: Binders 098
Buffers
See: PH Control agents 300
Builders
See: Detergent builders 173, Soap builders 345
Building Materials
See: Structural binders 359, Structural components 360
Calefactants 240
Fluids used to transmit heat from a hot source to a heat absorber.
Calendering compounds
See: Plastic forming compounds 304
Carbonizing agents 108
A chemical or mixture of chemicals that remove cellulose from wool.
Carriers 110
(1) Inert materials used to support a catalyst in a large scale reaction system. (2) A substance that carries another substance through a chemical or physical process.
Catalysts 112
Substances that alter the velocity of a chemical reaction but undergo no chemical change themselves.
See also: Accelerators 004, Activators 007, Enzymes 200
Caulking compounds 114
Any product used to fill gaps in seams and joints between two surfaces to prevent the passage of liquids, air, or gases.
See also: Sealants 328
Cement curing agents
See: Curing Agents
Ceramic body and slip stains
See: Stains 355
Chain extenders (polymerization) 118
Chemicals that increase the length of a molecular chain.
Chain stoppers (polymerization) 119
Chemicals that limit or terminate the growth of a molecular chain.
See also: Polymerization inhibitors 308
Chain transfer agents 120
Chemicals that interrupt the growth of a molecular chain by forming a new radical that acts as a nucleus for a new chain.
Chelating agents 3390
See: Softeners 348
Chemical intermediates 121
Chemical compounds that are formed in the sequence of chemical reactions between starting materials and a product.
Chemical process solvents
See: Reaction Media 318
Clarifiers 127
Chemicals that remove turbidity from solutions.
See also: Flocculating agents 224
Cleaners 128
Cleaning bleaches
See: Bleaches 099
Cleansing agents
See: Cleaners 128
Cloud point depressants 129
Coagulants 130
Substances that induce the aggregation or precipitation of particles from a dispersed state.
See also: Coalescents 131, Flocculating agents 224
Coalescents 131
Substances that induce the union of small droplets of a suspended liquid to form a larger droplet.
See also: Coagulants 130
Coalescing agents
See: Coalescents 131
Coatings 132
Materials that form a continuous film over a substrate.
See also: Specific finishing agents.
Color fixatives
See: Fixatives 219
Color retention aids
See: Dye retention aids 194
Coloring agents 133
Complexing agents 3391
Concrete and cement curing agents
See: Curing agents 142
Conditioners
See: Drilling mud conditioners 187, Fertilizer conditioners 210, Food conditioners 229, Metal conditioners 276, Textile conditioners 368
Cone and Mold Binders
See: Binders 098
Construction materials
See: Structural binders 359, Structural components 360
Coolants 2441
Fluids that, without undergoing a phase change, remove heat from materials or exothermic reactions.
Core binders
See: Binders 098
Correction fluids (paper) 136
Formulated liquid products, usually opaque, used to delete or mask errors in typed or handwritten texts.
Corrosion inhibitors 137
Materials used to prevent or retard the gradual destruction of a metal or alloy because of a reaction; such as oxidation, with its environment, electrolytic solutions, solvent action, or other chemical agents.
Coupling agents 138
Chemicals that (1) combine with compounds, such as diazonium compounds to produce dyes, (2) lead to the formation of high molecular weight polymers when used with cyclic chemicals, or (3) prevent glass fiber laminates from absorbing water.
Crabbing assistants (textile technology) 139
Chemicals that assist in the textile finishing process that set warp and weft threads.
Crease-resist finishing agents
See: Creaseproofing agents 140
Creaseproofing agents 140
Chemicals that impart wrinkle resistance to a fabric.
Crosslinking agents 141
Chemicals that promote the formation of structural links between the chains of a polymeric substance or between polymer molecules and other substances.
Curing agents
Substances that change the properties of a resin by a chemical reaction such as addition or condensation; usually accomplished in the presence of heat or a catalyst and sometimes under pressure.
Currying agents (leather processing) 143
An emulsion or a solution that promotes the loading of leather with oils or fats.
Cutting fluids
See: Coolants 2441
Cutting oils
See: Coolants 2441, Lubricants 272
Deinkers 144
Chemicals used to remove ink from paper.
Deaerating agents 145
Chemicals used to remove gases or mixtures of gases from processing streams, reaction vessels, feed water, etc.
Deasphalting agents 146
A solvent used to remove asphalt traces from petroleum after the routine asphalt removal process.
Dechlorinating agents 147
Chemicals used to destroy the residual or free chlorine remaining on textile products or wood pulp after bleaching.
Decolorizing agents
See: Bleaches 099
Decontaminants 149
Defoamers 150
Any chemical used to reduce or eliminate frothing or foaming in any treatment or process.
Defoliants 151
Any chemical that prematurely causes leaves to fall from flora such as trees and shrubs.
Degreasers 153
Chemicals that will remove grease.
Degummers 154
Chemicals used to dissolve and remove gum-like substances, for example used for removing sericin, a glue-like substance, from silk.
Dehairing agents 155
Chemicals used to remove hair from hides.
Dehumidifiers 156
Chemicals used to remove water vapor from the ambient atmosphere.
See also: Desiccants 170
Dehydrating agents 157
Chemicals used to remove water from a substance.
See also: Desiccants 170
Deicers 158
Chemicals used to remove ice from, or prevent its accumulation on, a surface.
Deionizers 159
Chemicals that remove or recover ions from gases or solutions.
See also: Demineralizers 162
Delignification Agents 160
A chemical that removes lignin from cellulosic materials.

Deliquescents
See: Dehumidifiers 156
Delustrants 161
Chemicals that are used to reduce or eliminate the gloss or sheen on textile fibers, yarns, and fabrics.
Demineralizers 162
A chemical or solutions of chemicals used to remove mineral constituents from water.
See also: Deionizers 159
Demulsifiers 163
A chemical that is used to destory (break) an emulsion or prevent its formation.
Denaturants 164
Any inert, nauseating, or poisonous chemical added to a product (such as ethyl alcohol) to make it unfit for human consumption.
Deodorants 166
Any substance used to remove or repress undesirable odors.
See also: Antiperspirants 068, Refining agents (nonpetroleum oils and fats) 320
Depitching agents 167
Chemicals that remove pitch from cellulosic materials.
Descaling agents 169
Chemicals that will remove scale from the surface of metals.
See also: Antiscaling agents 076
Desiccants 170
Substances that absorb water vapor from the air and abstract water from many fluids.
See also: Dehumidifiers 156, Dehydrating agents 157
Desizing agents 171
Chemicals used to remove sizing (e.g., starch, gelatin, casein, gums, waxes) from textiles, paper, or leather.
Detackifiers 172
A chemical that removes or reduces the adhesive properties of materials.
Detergent builders 173
A chemical that increases the detergent power of soap and synthetic surfactants.
See also: Soap Builders 345
Detergents 3620
Any substance that reduces the surface tension of water; specifically, a surfactant, which concentrates at oil-water interfaces, exerts emulsifying action, and, by this action, aids in removing soil.
Detonators
See: Blasting explosives 2060
Developers 174
Substances used to produce a visible image in exposed, radiation-sensitive materials.
Devulcanizing agents 175
Chemicals used to soften rubber during the reclaiming process.
See also: Rubber reclaiming agents 328
Dewaxing agents
See: Wax strippers 3582
Dielectrics
See: Electrical insulating compounds 2601, Semiconductors 338
Discharge printing agents 179
Substances capable of destroying a dye or mordant in a fabric to produce a colorless image upon colored backgrounds or vice versa.
Disinfectants 180
Substances used on inaminate objects that destroy or inhibit microorganisms but not bacterial spores.
See also: Antiseptics.
Disintegrating agents 181
Dispersants 3621
Agents added to a suspending medium to promote uniform separation of extremely fine solid particles, often of colloidal size.
Dog and cat repellents
See: Animal repellents 021
Drainage aids
See: Flocculating agents 224
Drawing compounds 185
Materials to lubricate dies in the hot or cold forming of metals.
Driers 186
Chemicals that facilitate the drying of paints, varnishes, lacquers, inks, or sealants.
Drilling fluids
See: Drilling muds 188
Drilling mud conditioners 187
Any substance or substances added to drilling muds to increase the density, reduce viscosity, counteract contaminants, reduce filtrate loss, stabilize shale and clay, and to emulsify components of the mud.
Drilling muds 188
A suspension of finely divided materials pumped through the drill pipe during rotary well drilling to seal off porous zones, flush out chippings, and to lubricate and cool the bit.
Dry strength agents 189
Materials used to improve tensile and burst strength of paper products.
Drycleaning solvents
See: Solvents 352
Drying agents
See: Driers 186
Dulling agents
See: Delustrants 161
Dust control agents 190
Material or materials that are used to: (1) control the finely divided solid particles of powdered or ground material to reduce their discharge into the air, or (2) eliminate finely divided solid particles which have settled on surfaces.
Dust inhibitors
See: Dust control agents 190
Dust layers
See: Dust control agents 190
Dusting agents (rubber technology) 191
Materials that reduce the surface tack of rubber.
Dye assistants
See: Dye carriers 1100, Dye developers 1740, Dye intensifiers 2710, Dye leveling agents 2690, Dye reserving agents 192, Dye retardants 193, Dye retention aids 194, Fixatives 219, Mordants 278
Dye carriers 1100
Chemicals that increase dye penetration into textile products during processing.
Dye developers 1740
Chemicals added to dye solutions to form or develop dyestuffs directly on fiber.
Dye fixatives
See: Fixatives 219
Dye intensifiers 2610
Compounds used to increase the density of the tone or color in a dyed fabric.
Dye leveling agents 2690
Substances used to promote the even dyeing of textiles or paper.
Dye reserving agents 192
Materials that control the amount of dye absorbed by fibers, yarn, or fabric.
Dye retardants 193
Material added to a dye bath to prevent, by decreasing absorption of the dyes, the rapid exhaustion of the bath.
Dye retention aids 194
Materials added to a dye bath to ensure that the dye is retained on the fabric.
Dye strippers 3580
Substances used to remove dyes from fabrics so that they can be redyed.
Dyes 1330
Natural or synthetic chemicals used to impart a color to materials.
Electrical insulating compounds 2601
Materials that conduct electrical energy poorly, thus acting as a barrier to electrical conduction.
Electrolytes 195
Substances that, when fused or in solution, dissociate into ions and will then conduct an electric current.
Electroplating resists
See: Resists 323
Eluting agents 196
Substances used (1) to extract a solid substance from a mixture of solids, or (2) to remove adsorbed material from an adsorbent.
Emulsifiers 3622
Agents that hold in suspension a mixture of two or more immiscible liquids.
Emulsion breakers
See: Demulsifiers 163
Emulsion stabilizers 3540
Substances that assist in keeping finely divided droplets of an immiscible liquid suspended in another liquid.
Enamel opacifiers
See: Opacifiers 288
Engine coolants
See: Coolants 2441
Engraving agents
See: Etching agents 202
Entraining agents 199
Additives that form an azeotrope with one component of a liquid mixture to aid in otherwise difficult separations by distillation.
See also: Air entraining agents 1020
Enzymes 200
Catalytic proteins that are produced by living cells and that mediate and promote the chemical processes of life without themselves being altered or destroyed.
See also: Catalysts 112
Erosion control agents
See: Soil conditioners 349
Etching agents 202
Acidic or alkaline solutions used to solubilize and thus remove the surface layer of a material, usually metal or glass.
Evaporation control agents 203
Substances added to a liquid for reducing evaporation at the liquid surface.
See also: Surfactants 362
Explosion inhibitors 205
Substances used to reduce the explosion potential of flammable materials.
Explosives 206
Extenders 207
Materials used to (1) dilute, augment, or change the properties of resins, ceramics, paints, rubber, etc., or (2) to reduce costs in paint, ink, plastic, and other formulations.
See also: Fillers (augmentation) 213
Extraction solvents
See: Solvents 352
Extreme pressure lubricants 2720
Materials that reduce friction between adjacent moving parts of a machine which are operating under high pressure.
Extrusion compounds
See: Plastic forming compounds 304
Feed supplements (livestock) 208
Fermentation nutrients
See: Bacteriological nutrients 2830
Fertilizer conditioners 210
Substances which are added to fertilizer to inhibit caking by reducing its hydroscopicity.
Fertilizers 211

Materials that are added to soil to supply chemical elements needed for plant nutrition.

Fiber forming compounds 212
Manmade polymers that are capable of being spun or extended to make a fiber.

Fillers (augmentation) 213
Inert materials added to substances to modify their properties and improve quality.
See also: Extenders 207, Reinforcing agents 321

Fillers (patching) 214
Materials used to fill holes or indentations in wood, plaster, or other surfaces, usually before applying a coating such as paint or varnish.

Film formers
See: Coatings 132

Filter aids
See: Filtration aids 215

Filtration aids 215
Materials used to prevent clogging of filters by removing colloidal particles that would otherwise not pass through the filter.

Finishing agents (textile technology) 216

Fire chemicals
See: Fire Extinguishing agents 217, Flame Retardants 220

Fire extinguishing agents 217
Substances that, when applied to a fire, will put out or smother the fire.

Fire retardants
See: Flame retardants 220

Fireproofing agents
See: Flame retardants 220

Fixatives 219

Fixers
See: Fixatives 219

Fixing agents
See: Fixatives 219

Flame retardants 220
Substances added to or on materials to slow down the rate of flame propagation.

Flameproofing agents
See: Flame retardants 220

Flatting agents 221
Additives for paints or varnishes to disperse incident light rays to give the dried surface a matte finish.

Flocculating agents 224
Substances that induce the aggregation of suspended solid particles in such a way that they form small clumps or tufts resembling wool.
See also: Clarifiers 127, Coagulants 130

Flotation agents 2623
Chemicals that alter the surface tension of water or that make it froth easily; used in froth flotation to help separate particulate solids, especially minerals.

Fluorescent brighteners
See: Optical brighteners 290

Fluxes 227

Foam forming compounds
See: Plastic Forming Compounds 304

Foam inhibitors 228
Substances that, when added to liquids, suppress the formation of a foam or froth.

Foam stabilizers 3541
Substances that prevent the breakdown of an extended gas-liquid interface composed of bubbles.

Foaming agents
See: Blowing agents 102, Frothing agents 232

Formation aids (paper technology) 230
Substances added to paper pulp stock to promote the uniform formation of paper on the Fourdrinier machine.

Frothing agents 232
A substance that, when added to an agitated or aerated liquid, will promote the formation of a relatively stable foam or froth.

Fuel additives
See: Antifreezes 049, Antiknock agents 056, Dehydrating agents 157, Detergents 3620, Fuel oxidizers 2950, Viscosity adjustors 380

Fuel oxidizers 2950
Substances that provide oxygen necessary for combustion of fuel when normally oxygen is not present as, for example, the propulsion system of space vehicles.

Fuels 233
Substances that evolve energy in a controlled reaction by combustion or nuclear fission.

Fulling agents 234
Substances used to promote the compacting or shrinking of woolens.

Fume suppressants 235

Fumigants
See: Pesticides 299

Fungicides 236
Chemicals used to kill fungi.

Fungistats 237
Agents used to inhibit the growth of fungi.
See also: Rotproofing agents 235

Galvanizing fluxes 2271
Substances that remove oxides from and clean the surface of metals so that they may be more easily coated with zinc.

Gas absorbents 0030

Gas adsorbents 0120

Gasoline
See: Fuels 233

Gelling agents 239
Substances that cause the phase inversion of dispersed particles with formation of a porous semisolid containing residual liquid included in the voids.

Germicides
See: Antibiotics 208, Antiseptics 079, Bactericides 096, Disinfectants 180

Glass opacifiers
See: Opacifiers 288

Granulating agents 240

Grease removers
See: Degreasers 153

Greasproofing agents 241
Oil repellent substances applied to a surface to prevent penetration of the surface by oil or grease.

Greases
See: Lubricants 272

Grinding abrasives
See: Grinding, lapping, and polishing abrasives 0021

Grinding, lapping, and polishing abrasives 0021
Various sized granular materials which may be (1) attached to substances such as cloth, plastics, wood, and iron; (2) bonded into a solid body to form a disc or wheel; or (3) applied in a loose, granular or powdered form to grind, clean, polish, or wear down metal, glass, wood, plastics, stone, or other substances.

Grouts
See: Structural binders 359

Hair bleaches
See: Bleaches 009

Hardeners
See: Curing agents 142

Heat insulating compounds 2602
Materials that conduct heat poorly thus acting as a barrier to heat conduction.

Heat sealing agents 243
Thermoplastic materials capable of bonding surfaces together when heated and then cooled.
See also: Adhesives 009

Heat stabilizers 3542
Substances that prevent the degradation of a material by heat.

Heat transfer agents 244

Heating fuels
See: Fuels 233

Herbicides 248

High explosives
See: Blasting explosives 2060

High temperature lubricants 2721
Materials which reduce friction between adjacent moving parts of a machine which are operating at high temperatures

Household cleaners
See: Cleaners 128

Household disinfectants
See: Disinfectants 180

Humectants 250

Humidity indicators 251
Substances that change color with changes in the water vapor (humidity) of the surrounding atmosphere.

Hydraulic fluids 252
Noncorrosive fluids of low viscosity which are used to transmit force.

Hygroscopic agents
See: Dehumidifiers 156

Incendiaries 256
Substances used in ammunition which are capable of igniting upon impact with a target.

Indicators
See: Acid pickling indicators 005, Humidity indicators 251, Oxidation-reduction indicators 294, PH indicators 301

Industrial cleaners
See: Cleaners 218

Industrial disinfectants
See: Disinfectants 180

Inflating agents (rubber technology) 257
Substances capable of generating inert gases upon heating and which may be added to rubber or plastic to produce a foamed or spongy texture.
See also: Blowing agents 102

Inhibitors
See: Bloom inhibitors 101, Choline esterase inhibitors 125, Corrosion inhibitors 137, Foam inhibitors 228, Mold inhibitors 2371, Oxidation inhibitors 293, Ozonation inhibitors 291, Pickling inhibitors 303, Polymerization inhibitors 308, Prevulcanization inhibitors 311, Rust inhibitors 331

Injection molding compounds
See: Plastic forming compounds 304

Ink driers
See: Driers 186

Ink fillers
See: Fillers (augmentation) 213

Ink removers
See: Deinkers 144

Inorganic intermediates 1210
Chemical intermediates that do not contain any carbon atoms.

Insect attractants 258

Insect repellents 259
Substances that drive away insects from the point of application.

Insecticides 2991

Institutional cleaners
See: Cleaners 128

Institutional disinfectants
See: Disinfectants 180

Instrument lubricants
See: Lubricants 272

Insulating compounds 260

Intensifiers 261
Compounds used in printing, photography, and textile dyeing to increase the density of the tone, color, or image.

Intermediates
See: Chemical Intermediates 121
Internal combustion fuels
See: Fuels 233
Internal lubricants 2722
Agents that induce self-lubrication in plastics to assist flow in calendering, molding or extrusion, impart lubricity to finished products, etc.
Ion exchange compounds 262
Substances that have active ionic sites at which an exchange of mobile ions can occur while maintaining the electrical neutrality of the substance.
See also: Softeners 348
Jet fuels
See: Fuels 233
Jointing compounds
See: Caulking compounds 114
Kier assistants (textile technology) 263
Substances that enhance the wetting of textiles and promotes the washing of the unfinished fabric.
Kier boiling assistants
See: Kier assistants (textile technology) 263
Lachrymators 264
Substances that irritate the eyes causing tearing.
Lacquers
See: Coatings 132
Lakes
See: Dyes 1330
Laminating agents 265
Substances that are used to bond or cement two or more layers of the same or different materials to form a composite.
Lapping abrasives
See: Grinding, lapping, and polishing abrasives 0021
Laundering agents
See: Bleaches 099, Detergents 3620, Laundry sours 266, Rinse aids 3625, Wetting agents 3626
Laundry bleaches
See: Bleaches 099
Laundry sours 266
Substances such as acids or acid salts that neutralize residual alkalinity in laundering.
Leather softeners
See: Softeners 348
Leather stains
See: Stains 355
Leveling agents 269
Liquid absorbents 0031
Materials that assimilate liquids frequently for the purposes of separation or purification.
Liquid adsorbents 0121
Liquid propellants
See: Fuels 233
Loading agents
See: Weighting agents 284
Lubricant additives 271
Substances added to lubricants to improve their properties, such as thermal resistance, viscosity, or detergency.
Lubricants 272
Materials that reduce the friction developed between adjacent solid surfaces, at least one of which is in motion such as the moving parts of a machine or piece of equipment.
See also: Oiliness agents 287
Machinery lubricants
See: Lubricants 272
Masking agents (odors) 1660
Substances that counteract an undesirable odor by introducing a stronger, more pleasant odor.
See also: Odorants 285
Markers (textile) 273
Laundry and drycleaning-resistant substances used to label textiles.
Mercerizing agents 275
Substances that promote the alkaline treatment of certain textile fibers causing them to be stronger and more receptive to dyes.
Mercury decontaminants 1490
A chemical or metal which will remove mercury and its compounds from water or chemicals.
Metal conditioners 276
Substances used to prepare metal surfaces for coating, electroplating, or passivating a chemically active metal surface.
Metal etching agents
See: Etching agents 202
Metal pickling agents
See: Pickling agents 302
Microbiological culture media 277
Materials that contain all the nutrients necessary to grow a particular microorganism.
See also: Bacteriological nutrients 2830
Mildew preventatives 2370
Chemicals used to prevent the growth of fungi responsible for mildew formation.
Milling agents
See: Fulling agents 234
Miscellaneous
See: Other 291
Mold binders
See: Binders 098
Mold inhibitors 2371
Chemical substances capable of slowing down or preventing the growth of mold.
Mold lubricants
See: Lubricants 272
Mold release agents
See: Lubricants 272
Molding compounds
See: Plastic forming compounds 304
Monomer
See: Polymerization intermediates 1212
Mordants 278
Substances capable of fixing or binding a dye in or on a substance (for example, a textile fiber) by combining with the dye to form an insoluble compound.
Mothproofing agents 2590
Substances that repel moths that breed in wool and fur.
Motor lubricants
See: Lubricants 272
Neutralizing agents
See: PH control agents 300
Nuclear fuels
See: Fuels 233
Nucleating agents 282
Agents that promote materials such as liquids, supersaturated solutions, and saturated vapors to form crystals or droplets.
Nutrient supplements
See: Dietary supplements 177
Nutrients 283
See: Dietary supplements 177
Obscuring agents 284
Substances, that upon disperal, form a smoke screen and restrict visibility.
Odor control agents
See: Deodorants 166
Odor masking agents
See: Masking agents (odors) 1660
Odorants 285
Substances used to impart an odor to odorless gases, for example, or to mask unpleasant odors with one that is more pleasants.
See also: Masking agents (odors) 1660
Oil repellents 286
Substances that are applied to papers and textiles to prevent oil staining.
Oil resistant agents
See: Oil repellents 286
Oiliness agents 287
Agents that retard the gumming of vegetable oils while promoting lubrication.
See also: Lubricants 272
Opacifiers 288
Materials used in products to make them, or some part of them, nontransparent; they may also enhance luster, control texture, stabilize color, or promote craze resistance.
Optical bleaches
See: Optical Brighteners 290
Optical brighteners 290
Colorless, fluorescent organic compounds which absorb ultraviolet light and emit it as visible blue light to mask undesirable yellow tones in textiles, paper, detergents, and plastics.
See also: Bleaches 099, Brighteners (electro-plating) 106
Organic intermediates 1211
Chemical intermediates that contain carbon atoms.
Organic synthesis catalysts
See: Catalysts 112
Oxidants
See: Oxidizers 295
Oxidation inhibitors 293
Substances which, when compounded with various materials, retards the rate of oxidation.
See also: Ozonation inhibitors 296
Oxidation—reduction indicators 294
Substances that undergo a reversable color change upon exposure to oxidation or reduction reaction conditions.
Oxidizers 295
Compounds that give up oxygen easily, remove hydrogen from other compounds, or attract electrons.
Oxidizing agents
See: Oxidizers 295
Ozonation inhibitors 296
Substances that protect materials from degradation by reaction with ambient ozone.
See also: Oxidation inhibitors 293
Paint binders
See: Binders 098
Paint driers
See: Driers 186
Paint fillers
See: Fillers (augmentation) 213
Paint removers
See: Paint strippers 3581
Paint strippers 3581
Substances used to remove paints from surfaces.
Paint thinners
See: Solvents 352
Paint vehicles
See: Binders 098
Paints
See: Coatings 132
Paper fillers
See: Fillers (augmentation) 213
Paper opacifiers
See: Opacifiers 288
Parasiticides
See: Antiparasitics 066
Patching compounds
See: Fillers (patching) 214
Pearlizing agents 298
Substances that impart a shiny, opalescent appearance to materials such as plastics and paints.
Pelletizing Binders
See: Binders 098
Penetrants 3624
Any compound used to increase the speed and ease with which a bath or liquid

permeates a material being processed by effectively reducing the interfacial tension between the solid and liquid.
Penetrating agents
See: Penetrants 3624
Peptizing agents 1950
Materials that (1) promote colloid dispersion and stabilize hydrophobic colloid solutions by providing ions which are adsorbed on the particle surfaces, and (2) that, in trace quantities, will soften or liquify another substance.
Perfume fixatives
See: Fixatives 219
Petroleum Refining Catalysts
See: Catalysts 112
PH control agents 300
Substances added to change or actively maintain acidity or basicity, including buffers, acids, alkalies, and neutralizing agents.
PH indicators 301
Substances that measure the approximate degree of acidity or basicity of solutions.
Pickling agents 302
Substances used to remove rust and scale from metal surfaces.
Pickling indicators
See: Acid pickling indicators 005
Pickling inhibitors 303
Substances added to materials used as acid pickling agents which retard or prevent the chemical action of the acid on the base metal.
Pigments 1331
Materials, usually insoluable dry powders, that are used to impart color to substances or mixtures by selectively absorbing and reflecting light.
Plasma extenders 2070
Plastic forming compounds 304
Compositions, including a polymer as a major constituent, that are capable of being shaped by a molding process, such as injection, compression, extrusion.
Plasticizers 305
An additive that imparts flexibility and softness to an otherwise rigid plastic.
Plastic compounding agents 306
Plastics fillers
See: Fillers (augmentation) 213
Plastics reinforcing agents
See: Reinforcing agents 321
Plastisols
See: Coatings 132
Poison gas decontaminants 1491
Chemicals that will remove poison gases from surfaces.
Polishes
See: Coatings 132
Polishing Abrasives
See: Grinding, lapping, and polishing abrasives 0021
Pollution control catalysts
See: Catalysts 112
Polymerization additives 307
Polymerization catalysts
See: Catalysts 112
Polymerization inhibitors 308
Substances that, when added to a reaction mixture of monomeric chemicals, stop or retard the action of polymerization.
See also: Chain stoppers (polymerization) 119
Polymerization intermediates 1212
Polymeric substances that are formed in the sequence of chemical reactions between starting materials and a product.
Powder coatings
See: Coatings 132
Precision instrument lubricants
See: Lubricants 272
Prespotting agents (drycleaning) 309
Substances used prior to drycleaning or textiles to loosen or dissolve soil.
Preservatives 310
(1) Substances added to chemicals, natural products, fabrics, or food products to preserve them against decay, discoloration, or spoilage. (2) Substances impregnated into or covering wood to prevent attack by insects and other organisms.
Pressure molding compounds
See: Plastic forming compounds 304
Prevulcanization inhibitors 311
Substances which prevent scorch and premature vulcanization of rubber prior to reaching vulcanization temperatures.
Printing and dyeing resists
See: Resists 323
Printing ink driers
See: Driers 186
Printing ink fillers
See: Fillers (augmentation) 213
Propellant explosives 2061
Combustible substances that produce heat and supply ejection particles, as used in nonnuclear ammunition; for propellant explosives used as fuels.
Propellants
See: Aerosol propellants 014, Fuels 233, Propellant explosives 2061
Protective agents 312
Agents used to protect wool and silk during wet processing.
Pulping retention aids 315
Substances added to the pulp slurry to maximize drainage and minimize loss of pulp fibers in the initial stage of the paper forming process.
Quenching agents
See: Coolants 2441
Radiation protective agents 316
Substances affording protection against the deleterious effects of radioactivity.
Radiation sensitizing agents 317
Radioactivity decontaminants 1492
Any chemicals that will remove radioactivity from surfaces, coolants, or carrier gases or from the air.
Rayon soaking oils
See: Soaking agents (textile technology) 344
Reaction media 318
Substances that act as vehicles for chemical reactions and which do not enter into the reaction themselves.
Reaction solvents
See: Reaction media 318, Solvents 352
Reducers (chemical technology) 319
Substances that act as electron denors in a chemical reaction.
Reducing agents
See: Reducers (chemical technology) 319
Refining agents 320
Substances used to remove impurities from crude oils before further treatment.
See also: Deodorants 166
Refining catalysts
See: Catalysts 112
Refrigerants 2442
Substances that, by undergoing a change in phase (liquid to gas, gas to liquid), release or absorb a large latent heat in relation to their volume and thus cause a considerable cooling effect.
Reinforcing agents 321
Substances used to increase the strength, hardness, abrasion resistance, and tear resistance of materials such as rubber, plastics, and flooring compositions.
See also: Fillers (augmentation) 213
Relaxants
See: Muscle relaxants 280
Release Agents
See: Lubricants 272
Removers
See: Deinkers 144, Degreasers 153, Descaling agents 169, Dye strippers 3580, Paint strippers 3581, Prespotting agents (drycleaning) 309, Rust removers 332, Strippers 358, Tar removers 366, Tarnish removers 367
Reodorants
See: Odorants 285
Repellents
See: Animal repellents 021, Insect repellents 259, Oil repellents 286, Water repellents 382
Repulping aids 322
Substances that facilitate wetting of dried paper pulp to form a water suspension of the paper fibers.
Resin curing agents
See: Curing agents 142
Resists 323
Substances applied as a protective layer to selected areas of a surface to prevent printing, dyeing, or etching of those areas of the surface.
See also: Coatings 132
Retardants
See: Dye retardants 193, Flame retardants 220, Soil retardants 351
Retention Aids
See: Dye retention aids 194, Pulping retention aids 315
Rewetting Aids
See: Wetting agents 3627
Rinse aids 3625
Any chemicals which are added to a wash bath to remove traces of materials such as soap, contaminants, and residues.
Rocket fuels
See: Fuels 233
Rotproofing agents 325
Substances added to textiles, wood products, etc. to prevent their degradation by microorganisms.
See also: Fungistats 237
Rubber antioxidants
See: Oxidation inhibitors 293
Rubber blowing agents
See: Blowing agents 102
Rubber compounding agents 326
Rubber curing agents
See: Curing agents 142
Rubber fillers
See: Fillers (augmentation) 213
Rubber forming compounds 327
Compositions including an elastomer as a major constituent that are capable of being shaped by a forming process.
Rubber reclaiming agents 328
Substances used to help prepare scrap rubber for reuse.
See also: Devulcanizing agents 175
Rubber reinforcing agents
See: Reinforcing agents 321
Rubber softeners
See: Softeners 348
Rubber tackifiers
See: Tackifiers 364
Rubbing fastness agents (textile technology) 329
Substances added to textiles to improve their resistance to abrasion.
Rust inhibitors 331
Substances used to prevent the formation of iron oxides on ferrous metals and alloys.
Rust preventatives
See: Rust inhibitors 331
Rust removers 332
Substances used to remove oxidized iron (rust) from the surface of metals.
Sanitizers

See: Disinfectants 180

Scavengers 333
Substances added to a process or mixture to consume or inactivate by-products, traces of impurities, etc. In metallurgy; a reactive metal added to a molten metal to combine with and remove dissolved gases.

Scouring agents 335
Compounds used to remove the natural oils and fats from raw wool; to remove lubricants applied to rayon yarns or fabrics during such operations as throwing, winding, weaving, and knitting; also used to clean process equipment surfaces.
See also: Abrasives 002

Scrooping agents 336
Substances that impart a stiff or harsh feel to silk.

Scum breakers
See: Demulsifiers 163

Sealants 337
Organic compounds that are soft enough to pour or extrude and, upon subsequent hardening, form a permanent bond with the substrate.
See also: Adhesives 009, Caulking compounds 114

Seed disinfectants
See: Disinfectants 180

Semiconductors 338
Solid crystalline materials whose electrical condutivity is intermediate between that of a metal conductor and that of an insulator.

Sequestrants 339
Substances that remove a metal ion from a solution system by forming a complex ion that does not have the chemical reactivity of the metal ion that is being removed; sequestrants can be chelating or complexing agents.

Shellacs
See: Coatings 132

Shrinkage controllers 340
Materials added to textiles to reduce contraction resulting from washing or laundering.

Sizes 341
Substances applied to fabric or yarn to increase its stiffness, strength, smoothness, or weight.
See also: Stiffening agents 357

Slime preventatives 342

Slimicides
See: Slime preventatives 342

Slip-proofing agents
See: Antislip finishing agents 084

Soaking agents 344
Substances that facilitate the wetting of textiles.

Soap builders 345
Substances mixed with soap to modify its alkali content, to add water softening ability, or to otherwise improve cleaning properties.
See also: Detergent builders 173

Soaping agents (printing and dyeing) 346
Substances used to prepare textiles for printing or dyeing.

Soaping-off assistants 347
Substances used to facilitate the removal of unattached dye, dye assistants, or soaking agents after dyeing.

Soaps
See: Detergents 3620

Softeners 348
(1) Compounds used in textile finishing to impart superior "hand" to the fabric and facilitate mechanical processing. (2) Substances that reduce the hardness of water by removing or sequestering calcium and magnesium ions.

Soil conditioners 349
(1) Materials added to topsoil to reduce acidity (e.g., lime), to promote growth (e.g., bone meal), or to improve the tilth of the soil. (2) Long-chain organic molecules which affect the anion exchange capacity of soil.

Soil disinfectants
See: Disinfectants 180

Soil release agents 350
Substances capable of promoting the removal of dirt from textiles.

Soil retardants 351
Substances applied to textiles to inhibit the attachment of dirt to the fabric and to facilitate removal of attached dirt in cleaning operations.
See also: Antistaining agents 086

Soil repellents
See: Soil retardants 351

Soil suspending agents 3626
Compounds used in laundry and drycleaning products to prevent redeposition of soil in laundry.

Soil wetting agents
See: Wetting agents 3627

Soldering fluxes 2272
Substances that remove oxides from and clean the surface of metals so that they may be joined more easily by fused solder (lead-tin alloy).

Solid material adsorbents 0122

Solid propellants
See: Fuels 233, Propellant explosives 2061

Solvents 352
Substances capable of dissolving another substance (solute) to form a uniformly dispersed mixture (solution) at the molecular or ionic level.
See also: Strippers 358, Tar removers 366

Solvents (chemical process)
See: Reaction media 318

Sound insulating compounds
See: Acoustical insulating compounds 2600

Spotters
See: Prespotting agents (drycleaning) 309

Spotting agents
See: Prespotting agents (drycleaning) 309

Spreading agents 353
Substances used to promote the uniform coating and adhesion of agricultural chemicals (except fertilizers) onto plant surfaces.

Stabilizers 354

Stain removers
See: Bleaches 099, Cleaners 128, Degreasers 153, Prespotting agents (drycleaning) 309, Solvents 352

Stains 355
(1) Non-protective coloring matter used on wood or leather surfaces to impart color without obscuring the grain. (2) Any colored, organic compound used to impart color to tissues, cells, or cell components for miscroscopic examination.

Starch improvers 356
Substances that improve the effectiveness of starch as a fabric finish.

Starches
See: Stiffening agents 357

Sterilizing agents
See: Antiseptics 079, Bactericides 096, Disinfectants 180

Stiffening agents 357
Substances used to strengthen or harden rubber or fabric.
See also: Sizes 341

Stopoffs
See: Resists 323

Strippers 358
Substances used to remove dyes, coatings, paints, waxes, etc. from surfaces of materials.
See also: Solvents 352

Structural binders 359
Substances used to cement structural elements together.

Structural components 360
Materials used as structural elements.

Sun-checking agents
See: Ultraviolet absorbents 0032

Surface active agents
See: Surfactants 362

Surface finishing agents 361
See: Coatings 132

Surfactants 362
See: Evaporation control agents 203

Suspending agents
See: Dispersants 3621, Emulsifiers 3622, Soil suspending agents 3626

Swelling agents 363
Solvent-like materials that are added to the reclaimed rubber to make it easier to process.

Tackifiers 364
Any material applied to a surface or added to a compound to improve adhesion.

Tanning agents 365
Any of the tannings used to treat hides and skins to protect them from decay.

Tanning bates
See: Bates 3650

Tar removers 366
Chemicals that are used to remove tar from a material.
See also: Solvents 352

Tarnish removers 367
Substances that will remove the discoloration of a metal surface due to the formation of a thin film of oxide, sulfide, etc.

Textile conditioners 368
Substances used in any of the processing steps of natural and synthetic fibers, yarns, and fabrics as aids in manufacturing, bleaching, dyeing, and finishing operations.

Textile lubricants
See: Lubricants 272

Textile softeners
See: Softeners 348

Texturizers 369

Thermal insulating compounds
See: Heat insulating compounds 2602

Thickeners 370
Any material or combination of materials that will (1) form a solid or semi-solid dispersion of a fluid lubricant; (2) improve or increase the stiffness, strength, smoothness, or weight of yarns, fabric, leather, paper, or other products; and (3) increase the viscosity of paints, coatings, etc.

Thinners
See: Solvents 352

Thinning solvents
See: Solvents 352

Thixotropic agents 3800
Agents that form a colloidal system capable of reversible gel-sol transformation used, for example, to prevent running of paints.

Tinning fluxes 2273
Materials used to remove oxides from, and clean, the surface of metals so that they may be more easily coated with tin.

Toners 372
(1) Coloring agents in which all pigments and the vehicle are organic. (2) Substances used to convert a colorless image to a colored image or an electrostatic image to a visible image.

Transmission fluids

See: Automatic transmission fluids 2520
Ultraviolet absorbents 0032
Materials used to protect against the accelerating effects of ultraviolet energy on the physical and chemical deterioration of plastics, colorants, and other substances by absorbing and harmlessly dissipating the energy.
See also: Anticracking agents 034
Varnish driers
See: Driers 186
Varnishes
See: Coatings 132
Vat printing assistants 379
A mixture of gums, reducing and wetting agents used to carry the dye in printing fabrics with vat dyes.
Vesicants 1687
Viscosity adjustors 380
Substances that will modify flow characteristics of other substances or mixtures when added to them.
Viscosity depressants 3801
Substances that reduce the effect of temperature on the viscosity of a liquid.
Viscosity improvers 3802
An additive for lubricating and automotive oils that lowers the pour point.
Viscosity regulatory
See: Viscosity adjustors 380
Vulcanization catalysts
See: Catalysts 112
Vulcanization leveling agents 2691
Substances used to promote the even vulcanization of rubber.
Vulcanizing agents 381
Substances used in the vulcanization of rubber to convert rubber hydrocarbon from a soft, tacky thermoplastic to a strong, temperature-stable thermoset having unique elastic modulus and yield properties.
Water repellents 382
Chemicals used to treat textiles, leather, paper, or wood to make them resistant (but not proof) to wetting by water.
See also: Waterproofing agents 383
Water softeners
See: Chelating Agents 3390, Ion Exchange Compounds 262, Softeners 348
Waterproofing agents 383
Chemical used to make materials impervious to penetration by water.
See also: Water repellents 382
Waxes
See: Coatings 132
Wax strippers 3582
Substances used to remove wax from surfaces.
Weed killers
See: Herbicides 248
Weighting agents 384
Substances that are added to yarn or fabric to increase their weight or to act as a filling agent to cloth.
Welding fluxes 2274
Substances which remove oxides from, and clean the surface of metals so that they may be more easily joined by high temperature fusion processes.
Wet strength agents 385
Chemicals used to increase the bursting strength of wet paper and wet paperboard products.
Wetting agents 3627
Surfactants that, when added to water, cause it to penetrate more easily into, or to spread over the surface of another material by reducing the surface tension of water.
Whitening agents
See: Optical brighteners 290
Whitening finishes (fluorescent)
See: Optical brighteners 290
Wood stains
See: Stains 355

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*

01 Agriculture, forestry and fishing (the production of crops, livestock, and animal specialties includes both operations directly involving production (e.g., soil fertilization, livestock feeding) and indirect operations involving the physical plant (e.g., grain storage, barn disinfecting))
010 Animal services
0100 Animal services, except veterinary
01000 Artificial insemination and breeding
01001 Cattle spraying
01002 Grooming and boarding (includes dogs, cats, and horses)
01003 Milk testing
01004 Sheep dipping and shearing
0101 Veterinary services
011 Animal specialty production
0110 Earthworm production
0111 Fur-bearing animal production (includes chincillas, minks, foxes, rabbits, and fur-bearing game)
0112 Honey and bee production
0113 Horse and other equine production
0114 Pet production
0115 Silk and silkworm production
012* Crop production
0120 Cash grain production
01200 Corn production
01201 Rice production
01202 Soybean production
01203 Wheat production
0121 Field crop production, except cash grains
01210 Cotton production
01211 Potato production
01212 Sugar production
01212 Tobacco production
0122 Fruit and tree nut production
01220 Berry production
01221 Citrus fruit production
01222 Deciduous tree fruit production
01223 Grape production
01224 Tree nut production
0123* Horticultural specialties production
01230 Food crops grown under cover
01231 Home lawn and garden horticulture
01232 Ornamental floriculture and nursery products
0124 Vegetable and melon production
013 Fishing, hunting, trapping (commercial only)
0130 Fish hatcheries, preserves, and shellfish beds
0131 Fishing (includes fishing for finfish and shellfish)
0132 Hunting, trapping, and game propagation
014* Forestry
0140 Forest nurseries
0141 Forestry services
01410* Firefighting and prevention (forest)
01411 Reforestation
0142 Tree seed gathering, extracting, and selling
015 Livestock production and dairy farming
0150 Dairy farming
0151 Livestock production, except dairy and poultry stock
01510 Beef cattle production
01511 Hog production
01512 Sheep and goat production
0152 Poultry and egg production
01520 Chicken egg production
01521 Chicken production
01522 Poultry specialty and egg production (includes ducks, geese, pheasants, pigeons, and quail)
01523 Turkey and turkey egg production
02* Chemicals
020* Industrial inorganic chemicals
021* Industrial organic chemicals (does not include plastic materials and synthetics)
0210 Acyclic chemicals
0211* Cyclic chemicals
0212* Reagent and high purity grade chemicals

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

03* Construction
030* Building construction
0300 Industrial buildings and warehouses
0301 Nonresidential buildings, except industrial (includes amusement and recreational facilities, commercial buildings, farm buildings)
0302 Residential buildings (includes dormitories and hotels)
031* Construction, except building construction
0310 Bridges, tunnels, and elevated highways
0311* Highways and streets
0312 Miscellaneous nonbuilding construction
03120 Blasting, except demolition
0313 Public utility equipment (includes water, sewer, pipelines, communication, and powerlines)
032 Construction specialties
0320* Carpentry and flooring
03200* Carpentry
03201 Floor laying, scraping, and finishing
0321* Concrete work
0322 Electrical work
0323* Masonry, stonework, tile setting, and plastering
03230 Masonry and stonework
03231 Plastering, drywall, acoustical, and installation work
03232 Terrazzo, tile, marble, and mosaic work
0324 Miscellaneous special construction work
03240 Glass and glazing work
03241 Structural steel erection
0325* Painting, paperhanging and decorating
0326* Plumbing, heating and air-conditioning work
0327 Roofing and sheet metal work
0328 Water well drilling and servicing
04 Consumer and commercial applications
040 Building and general applications
0400* Cleaning and maintenance
04000 Chimney and furnace cleaning
04001* Dwelling cleaning and maintenance
04002* Hospital cleaning and maintenance
04003* Office and public building cleaning and maintenance
04004* Service station cleaning and maintenance
04005* Swimming pool cleaning and maintenance
0401* Commercial testing (excludes testing laboratories associated with manufacturing plants)
04010 Automobile testing
04011* Chemical and medical testing
04012 Food testing
04013 Product testing
04014* Radiation detection and dosimetry
04015 Seed testing
0402* Disinfecting and exterminating (excludes use of disinfectants and pesticides for agricultural or horticultural purposes)
04020 Bird proofing
04021 Disinfecting
04022 Insect and rodent exterminating
0403* Electric and gas supply
04030* Electric power generation, transmission, and distribution
04031* Gas transmission and distribution (excludes natural gas, mixed gas, manufactured gas, and liquefied petroleum gas)
0404* Firefighting and prevention (building and general)
0405* Law enforcement
0406* Research and development (excludes research and development laboratories of companies which manufacture the products resulting from research and development activities)
0407* Sewerage treatment and refuse disposal
0408* Water supply
04080* Water purification
04081* Water softening
041* Personal applications
0410 Beauty and barber shop services
0411 Burial services (includes crematories and funeral homes)
0412* Laundry and drycleaning
04120* Drycleaning and dyeing
04121 Fur cleaning and storage

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

04122* Laundering (includes industrial laundry and linen supply services, diaper services, coin operated laundry services, and home laundering)
04123* Rug and upholstery cleaning
0413* Lodging (includes hotels, motels, camps, and trailering parks)
042* Repair work
0420* Electrical repair work (includes the repair of electrical and electronic equipment, such as televisions, radios, phonographs, tape recorders, and household appliances; does not include the installation, repair or maintenance of radio and television broadcasting equipment or of other industrial equipment such as computers, diathermy, X-ray, heat-treating or welding equipment)
0421* Furniture repair and refinishing work
0422* Replating work
0423 Shoe and leather repair work
0424 Watch, clock and jewelry repair work
0425 Welding repair work
06* Fabricated metal products
060 Cutlery, hand tools, and hardware
0600 Cutlery
0601 Hand and edge tools
0602 Handsaws and saw blades
0603 Hardware
0604 Vacuum and insulated containers
061* Fabricated structural metal products
0610 Archectural metal work
0611 Fabricated plate work
0612 Farbicated structural metal
0613 Metal doors, sash and trim
0614 Prefabricated metal buildings
0615 Sheet metalwork
062* Metal cans and shipping containers
0620 Metal barrels, drums, and pails
0621 Metal cans
063* Metal forgings and stampings
0630 Automotive stampings
0631 Crowns and closures
0632 Iron and steel forgings
0633 Job stampings (includes aviation, agricultural equipment, electrical appliance, office machine, furniture, radio, and television stampings)
0634 Nonferrous forgings
0635 Stamped and spun utensils
064* Metal processing operations
0640* Brazing, welding and soldering
0641* Coating (includes painting, lacquering, enameling, varnishing, japanning, plating, anodizing, galvanizing, and application of rust inhibiting coatings)
0642* Engraving and etching, except for printing
0643* Machining
06644 Polishing
0645* Surface cleaning and conditioning (includes descaling and tarnish and rust removal)
065 Miscellaneous fabricated metal products
0650 Fabricated pipe and fittings (metal)
0651 Metal foil and leaf
0652 Steel springs, except wire
0653 Valves and pipe fittings (metal)
0654 Wire springs
066 Plumbing equipment (metal)
0660 Metal plumbing fixtures
0661 Plumbing fixture fittings and trim (metal)
067 Screw machine products and fasteners
0670 Metal fasteners (includes nuts, bolts, rivets, and washers)
0671 Screw machine products
07* Fabricated rubber and plastic products
070* Miscellaneous fabricated plastic products
0700* Foamed plastic products (includes uncovered mattress core, insulation, and formed and slab stock for pillows and cushions, cups, and plates, etc.)

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

0701* Industrial plastic products (includes parts and accessories for motor vehicles, aircraft, missiles, appliances, and industrial equipment, as well as knife handles, battery boxes, plugs, etc., excludes belting, packing, and seals)
0702* Laminated plastic sheet, rod, and tube
0703 Phonograph records and recording tapes
0704 Plastic apparel
0705 Plastic dinnerware, tableware, and kitchenware
0706* Plastic packaging and shipping containers (includes boxes, bottles, drums, closures, blister and bubble formed packaging and box liners; for plastic packing dunnages, see foamed plastic produts or unsupported plastic film, sheet rod, and tube.)
0707 Plastic tubing, except medical and surgical
0708 Regenerated cellulosic products, except rayon (includes cellophane, caps, bands, and sponges)
0709* Unsupported plastic film, sheet, rod, and tube
071* Miscellaneous fabricated rubber products
0710 Mechanical rubber goods (includes hard, molded, extrusion and lathe cut rubber mechanical goods, rubber boats and rafts, pressure sensitive tape, sheet rubber rolls and tubing, except medical and surgical)
0711 Rubber apparel (includes bathing and shower caps, rainwear, aprons, baby pants, industrial rubber gloves)
0712 Rubber balloons (includes toy, advertising, and meteorological balloons)
0713 Rubber coated fabrics (includes apparel and footwear fabrics, upholstery fabrics, and hospital and crib sheeting)
0714 Rubber druggist and medical sundries (includes household and surgical gloves, bottles and nipples, prophylactics, ice bags, medical-surgical tubing)
0715 Rubber floor and wall coverings
0716 Rubber heels and soles (includes mats, stair treads)
0717 Rubber stationers' sundries (includes rubber bands, erasers, and finger cots)
0718* Sponge and foam rubber goods (includes latex foam and chemically blown sponge for padding, upholstery, mattress cores, pillows, and insulation)
0719 Unsupported rubber film and sheeting
072* Reclaimed rubber (any vulcanizable material, except reclaimed residue, derived from processing or treatment of natural or synthetic vulcanized scrap rubber, such material is used as a raw material in the manufacture of rubber goods with or without admixture with crude or synthetic rubber)
073* Rubber and plastic footwear (includes protective footwear, shoes, and beach and shower slippers)
074* Rubber and plastic hose and belting
075* Tires and inner tubes (includes pneumatic and solid tires, inner tubes, tread rubber, tire sundries, and repair materials)
08* Fabricated textile products
080* Apparel (excludes plastic and rubber apparel)
0800 Hats and caps
0801 Miscellaneous apparel and accessories (includes cloth gloves, robes, waterproof outerwear, except rubberized, cloth belts, handkerchiefs, and religious and academic gowns and vestments)
0802 Outerwear, except knitted
0803 Underwear, except knitted
081 Automotive, furniture, and apparel trimmings
082 Canvas and related products
0820 Awnings
0821 Sails
0822 Tarpaulins

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

0823 Tents and air-supported structures
083 Pleating and stitching (includes embroideries, stamped art goods, and art needlework)
084 Textile bags (includes cotton, synthetic, spun paper, and burlap bags)
085 Textile home furnishings (includes bed, bath and table linens, draperies, slip covers, mops, and dusters)
10* Furniture and fixtures
100 Household furniture (includes indoor and outdoor furniture)
1000 Mattresses and bedsprings
1001 Metal household furniture
1002 Plastic household furniture
1003 Upholstered wood household furniture
1004 Wood appliance cabinets
1005 Wood household furniture
101 Miscellaneous furniture (includes drapery hardware, blinds and shades, hospital beds)
102 Office and store furniture
1020 Metal office furniture
1021 Plastic office furniture
1022 Upholstered wood office furniture
1023 Wood office furniture
103 Partitions and fixtures
1030 Metal partitions and fixtures
1031 Plastic partitions and fixtures
1032 Wood partitions and fixtures (includes plastic-laminated wood fixture tops)
104 Public building furniture and related furniture (includes furniture for schools, theaters, restaurants, religious buildings, and libraries, as well as seats for public conveyances and automobiles)
11 Instruments and related products
110* Engineering and scientific instruments
111 Measuring and controlling devices
112 Medical and dental instruments and supplies
113* Opthalmic goods
1130 Contact lenses
1131 Eyeglasses (includes frame and lenses)
11310 Corrective glasses
11311 Fashion tinted glasses
11312 Sunglasses
1132 Industrial goggles and protective glasses
114* Optical instruments and lenses
115 Photographic equipment and supplies
1150 Cameras, projectors, processors, screens, photocopying equipment, etc.
1151* Silver halide photographic films, papers, and plates
1152* Nonsilver halide photographic films, papers, and plates, including electrophotography
1153* Photographic processing
12* Leather and fur
120* Leather and fur finishing (includes dyeing, polishing, softening, etc.)
121* Leather and fur products
1210 Leather and fur accessories
1211 Leather and fur apparel
1212 Leather footwear
1213 Leather gloves (includes handbags, wallets, key, and glass cases, change purses, and other leather cases)
1214 Leather luggage
1215 Saddlery
1216 Upholstery leather
122* Leather and fur tanning
13* Lumber and wood products (excludes furniture)
130 Cork
131 Fabricated hardboard products
132* Millwork, plywood, and structural members
133* Mirror and picture frames
134 Particleboard
135* Prefabricated wood buildings (includes mobile homes and buildings and prefabricated homes, farm buildings, marinas, sauna rooms, and paneling)
136 Preserved wood
137 Sawmill and planing mill products
138* Wood containers

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

14* Machinery and equipment (covers the use of chemicals in the construction, operation and maintenance of machinery and equipment, includes mechanical, electrical, and electronic machinery and equipment)
140 Communication and recording equipment
1400 Radio and television communication equipment (includes commercial, industrial, and military communication equipment, navigational and detection equipment, and satellite communications systems)
1401 Radio, television, and recording equipment
1402 Telephone and telegraph apparatus
141 Electric lighting and wiring equipment
1410 Current-carrying wiring devices (includes lightning rods)
1411 Electric lamps
14110 Flourescent lamps
14111 Incandescent lamps
1412 Lighting fixtures
1413 Vehicular lighting equipment
142* Electric transmission and distribution equipment
1420 Switchgear and switchboard apparatus
1421 Transformers (electric) (includes flourescent lamp ballasts and power regulators, boosters, and reactors)
143* Electronic components and accessories
1430 Cathode ray television picture tubes
1431 Electronic capacitors
1432 Electronic coils, transformers, and inductors
1433 Electronic connectors
1434 Electronic resistors
1435 Receiving-type electron tubes, except cathode ray
1436* Semiconductors and related solid state devices (includes diodes, rectifiers, printed circuits integrated micro circuits, transistors, etc.)
1437 Transmitting and special purpose electron tubes, except X-ray
144* General industrial machinery
1440* Air and gas compressors and vacuum pumps (excludes compressors for refrigeration and air conditioning equipment)
1441 Ball and roller bearings
1442 Blowers and fans (includes dust collection and other air purification equipment)
1443 Filters and strainers
1444* Industrial furnaces and ovens
1445 Miscellaneous mechanical power transmission equipment
1446 Packing and packaging machinery
1447 Pumps and pumping equipment (includes hydraulic fluid power pumps, domestic water systems and pumps, oil field pumps, and spraying pumps)
1448 Speed changers, drives, and gears
145* Metalworking machinery
1450* Automotive maintenance equipment
1451 Machine tool accessories (includes small cutting tools and attachments for machine tools and metalworking machinery and precision measuring tools)
1452 Machine tools (metal cutting type)
1453 Machine tools (metal forming type)
1454 Power driven hand tools (includes electric and pneumatic hand tools)
1455 Rolling mill machinery
1456 Special dies, tools, jigs, and fixtures
1457 Welding and cutting apparatus
146 Miscellaneous machinery and equipment
1460* Appliance wire and cord and flexible cord sets
1461* Electrical industrial apparatus
14610 Capacitors, except for electronic applications
14611 Carbon and graphite products (for aerospace, chemical, electrical, mechanical, metallurgical, and nuclear applications)
14612 Industrial controls
14613 Motors and generators
14614 Rectifying apparatus

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

1462* Engine electrical equipment
1463* Engines and turbines
1464 Primary batteries
14640 Dry cells
14641 Fuel cells
14642 Wet cells
1465 Storage batteries
14650 Nonsli type storage batteries
14651 Sli type storage batteries
1466 X-Ray equipment and tubes
147* Office and computing machines
1470 Calculating and accounting machines
1471 Dictating, transcribing, and recording machines
1472 Duplicating machines
1473 Electronic computing machines (includes auxiliary equipment and keypunch machines)
1474 Mailing, letter handling, and addressing machines
1475 Scales and balances, except laboratory
1476 Typewriters
148* Refrigeration and service machinery
1480 Cooking equipment
1481 Household electrical and electronic appliances
1482 Laundry equipment
1483 Measuring and dispensing pumps (includes gasoline, lubricating oil, and grease pumps)
1484* Refrigeration, air-conditioning, and heating equipment
1485 Vending machines
149* Special industry machinery
1490* Chemical manufacturing and petroleum refining machinery
1491* Construction and related machinery (includes cranes, mixers and pavers, scrapers, graders, rollers, tractors, trucks, trailers and wagons, conveyors, elevators and escalators, hoists, monorails, mining machinery, and oil field machinery)
1492 Farm and garden machinery
14920 Farm machinery and equipment (includes wheel tractors, dairy machines, sprayers and dusters, planting, seeding and fertilizing machinery, harvesting and haying machinery, and plows and listers)
14921 Lawn and garden equipment (includes garden tractors, motor tillers, lawnmowers and snow blowers)
1493 Food processing machinery
1494* Foundry and other primary metal machinery
1495 Paper industry machinery
1496 Plastics and rubber working machinery
1497 Printing trades machinery
1498 Textile machinery
1499 Woodworking machinery
15* Mining (extraction of minerals occurring naturally: solids, such as coal and ores: liquids, such as crude petroleum: and gases, such as natural gas, the term "mining" is also used in the broad sense to include quarrying, well operation, milling (e.g., crushing, screening, washing, flotation) and other preparation customarily done at the mine site or as part of mining activity
150 Anthracite mining
151* Bituminous coal and lignite mining
152* Metal mining
1520 Bauxite and other aluminum ore mining (includes drying, calcining, activating, and sintering)
1521 Copper ore mining (includes the recovery of copper concentrates by precipitation and leaching or copper ore. For the recovery of refined copper by leaching copper concentrates, see primary metal manufacture)
1522 Ferroalloy ore mining, except vanadium (for the mining of manganiferous ores valued chiefly for their iron content, see iron ore mining.)
1523 Gold and silver ore mining

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

1524* Iron ore mining (includes the production of sinter and other agglomerates, except those associated with blast furnace operations)
1525 Lead and zinc ore mining
1526 Mercury ore mining
1527 Miscellaneous metal ore mining
1528 Uranium-radium-vanadium ore mining
153* Nonmetallic mineral mining and quarrying, except fuels
1530 Chemical and fertilizer mineral mining
15300 Barite mining
15301 Fluorspar mining
15302 Phosphate rock mining
15303 Potash, soda, and borate mineral mining
15304* Rock salt mining
15305 Sulfur mining
1531 Clay, ceramic, and refractory mineral mining
1532 Gypsum mining
1533 Miscellaneous nonmetallic mineral mining and quarrying
1534 Sand and gravel mining
1535 Stone quarrying
1536 Talc, soapstone, and pyrophyllite mining and quarrying
154* Oil and gas extraction (includes oil and gas well operation and maintenance, the operation of natural gasoline and cycle plants, and the mining and extraction of oil from oil sands and oil shale, also includes activities such as emulsion breaking and desilting of crude petroleum, customarily done at the field site)
1540 Crude petroleum production
1541 Natural gas liquids production
1542 Natural gas production
16 Miscellaneous products
160 Brooms and brushes
161 Burial caskets
162 Costume jewelry and notions
1620 Artificial flowers
1621 Buttons
1622 Costume jewelry
1623 Needles, pins and fasteners
163* Hard surface floor, wall, and counter coverings (includes linoleum and asphalted-felt-base and supported plastic floor coverings)
164* Jewelry and silverware (for plated ware, see fabricated metal product manufacture)
165 Musical instruments
166 Signs and advertising displays
167* Toys and sporting goods
1670 Dolls
1671 Games, toys, and children's vehicles
1672 Sporting and athletic goods
168 Writing instruments and art supplies
1680* Art supplies
1681 Carbon paper and inked ribbons
1682 Marking devices (includes hand stamps, seals, and stencils)
1683 Pencils and crayons
1684 Pens
17* Ordnance and accessories (covers the use of chemicals in the construction, operation, and maintenance of ordnance and ordnance accessories)
170* Ammunition, except nuclear.
1700* Biological and chemical warfare agents (includes war gases and germs, screening smokes, signaling smokes, and incendiary and thickening agents).
1701 Bombs.
1702 Grenades.
1703 Land mines and underwater mines.
1704 Pyrotechnics (includes flares, signals, and fireworks).
1705* Rocket warheads and explosive components.
1706 Small arms and artillery ammunition.
1707 Torpedoes and depth charges.

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

171 Fire control equipment (equipment which controls the direction, volume and time of fire of guns or launchers by the use of certain electrical or electronic devices or by optical or mechanical systems).
172 Nuclear ordnance (includes nuclear bombs, projectiles, warheads and demolition charges).
173 Weapons (includes guns and artillery, launchers, and degaussing and mine sweeping equipment).
18* Paint and allied products.
180* Exterior oil base paint products.
1800 Automotive and machinery refinish paints and enamels (includes primers and undercoaters, excludes lacquers).
1801 Barn and roof paints.
1802 Exterior house paints (includes tinting bases, primers and under-coaters, interior-exterior floor paints).
1803 Marine paints and enamels, except industrial marine paints.
1804 Metallic paints.
1805 Stains (exterior) (includes shingle and shake stains).
1806 Traffic paints.
1807 Varnishes (exterior) (natural and synthetic oleoresinous varnishes).
181* Exterior water base paint products.
1810 All purpose water emulsion paints and tinting bases.
1811 Masonry water emulsion paints and tinting bases.
182* Industrial product finishes, except lacquers.
1820 Appliance, heating equipment, and air-conditioner finishes.
1821 Industrial maintenance paints (includes interior and exterior paints).
1822 Industrial marine paints.
1823 Insulating varnishes (electrical type).
1824 Machinery and equipment finishes.
1825 Metal paints (includes paints for sheet metal and sidings, containers and closures, and metal furniture and fixtures).
1826 Paper and paperboard finishes.
1827 Powdered coatings.
1828 Transportation equipment paints (original finishing only).
1829 Wood paints (includes paints for wood composition board and wood furniture and fixtures).
183* Interior oil base paint products.
1830 Interior oil base wall and trim paints (includes tinting bases, primers, and undercoaters).
1831* Stains (interior).
1832 Varnishes (interior).
184* Interior water base paint products.
1840 Interior water emulsion wall and trim paints.
185 Lacquers (includes acrylic lacquers).
1850 Automotive original and refinish lacquers.
1851 Fabricated metal lacquers
1852 Paper and paperboard lacquers
1853 Wood lacquers
187* Putty and allied products
1860 Paint and varnish removers
1861 Putty and glazing compounds
1862 Wood and textile preservatives (nonpressure type)
187 Related paint products
1870 Bleached shellacs
1871 Ink vehicles
1872 Pigment dispersions
188 Thinners (thinners for dopes and lacquers and oleoresinous thinners)
19* Paper and allied products
190 Building paper and board mill products
1900 Construction paper
1901 Insulating board
191* Miscellaneous converted paper products
1910* Bags, except textile bags
1911 Coated and glazed paper products
19110 Coated printing paper
19111 Gummed products
19112* Laminated or coated paper rolls and sheets (for packaging applications)

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

19113* Oiled, waxed and wax-laminated paper
19114 Pressure sensitive tape
1912* Die-cut paper and board products (includes filing cards and folders, bottle caps and closure, automotive panel and trim, and pasted, lined, laminated, or surface-coated paperboard)
1913* Envelopes and stationery products (includes tablets, notebooks, and looseleaf paper)
1914* Pressed and molded pulp goods (includes food packaging trays, serving plates, egg cartons, and molded pulp, or papier mache for bituminous fiber pipe, sewer, and drainage conduit and fittings)
1915* Sanitary paper products (includes sanitary napkins and tampons, tissues and towels, and disposable diapers)
1916 Wallpaper
1917 Wrapping paper
192* Paper mill products, except building paper
1920 Bleached bristols (smooth cardboard)
1921 Book paper
1922 Groundwood paper
1923 Newsprint
1924* Packaging and industrial converting paper
1925* Special industrial paper
193* Paperboard containers and boxes (includes containers for food and beverages, soaps and detergents, tobacco and cigarettes, cosmetics and drugs, apparel and hosiery, as well as corrugated shipping cartons)
194* Paperboard mill products
1940 Combination furnish paperboard (includes carton board, linerboard, and panel, and wallboard)
1941 Packaging and industrial converting paperboard
1942 Semichemical paperboard
1943 Wet machine board
195* Pulp mill board (includes woodpulp, cotton linter pulp and pulp, made from straw, rag, flax, deinked paper, and bagasse)
20* Petroleum refining
200* Petroleum blending and compounding, (includes the manufacture of fuel oils, gasoline, lubricating oils and greases, and paving, and roofing materials)
201* Petroleum cracking and other catalytic processes
202 Petroleum distillation
203* Petroleum treatment, except blending, cracking, and distillation (includes such treatment as acid treatment, clay treatment, dewaxing, blowing, and sweetening)
204* Waste oil recovery
21* Plastic and rubber materials and synthetics (not fabricated)
210* Cellulosic manmade fibers
2100 Acetate fibers
2101 Rayon, viscose, and cuprammonium process fibers
211* Natural rubber
212* Noncellulosic organic fibers
2120 Arcrylic and modacrylic fibers
2121 Polyamide fibers
2122 Polyester fibers
2123 Polyolefin fibers
213* Plastic materials and resins
2130 Thermoplastic resins and plastics
2131 Thermosetting resins and plastics
214* Synthetic rubber (includes rubber and other synthetic vulcanizable elastomers)
22* Primary metals
220* Blast furnace and electric furnace products (includes pig iron, slag, sinter, blast furnace, gas and ferroalloys)
221* Heat treated metals
222* Iron and steel foundry products (includes gray iron castings, malleable castings, steel investment castings, carbon steel castings, and alloy steel castings)
223* Metal powders and pastes

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

224* Nonferrous foundry products (includes nonferrous pipe and tube, rod, bar, and shapes, sheet, strip and plate, and wire)
226 Primary nonferrous metals (nonferrous metals obtained directly from ore)
227 Secondary nonferrous metals (nonferrous metals recovered from scrap by remelting and refining)
228* Steel mill products (includes steel ingot, wire, and related products, pipe and tubes, press and hammer steel forgings, hot- and cold-finished bars and bar shapes, and hot- and cold-rolled sheet and strip)
23 Printing and bookbinding operations
230* Bookbinding and related operations
2300* Book gilding, bronzing, edging, deckling, embossing, and gold stamping
2301* Bookbinding
231* Printing operations
2310 Electrotyping and stereotyping
2311* Lithographic platemaking (includes diazo type plates, wipeon plates, deep etch plates, and multimetal plates)
2312* Photoengraving
2313 Typesetting
24* Printing inks
240 News inks
2400 Letterpress news inks
2401 Lithograhic news inks
241 Packaging inks
2410 Flexographic packaging inks
2411 Gravure packaging inks
2412 Letterpress packaging inks
2413 Lithographic packaging inks
242 Publication inks
2420 Gravure publication inks
2421 Letterpress publication inks
2422 Lithographic publication inks
243 Screen printing inks
244 Stencil inks
245 Textile printing inks
25 Sanitizing agents, polishes, and cosmetics
250 Cosmetics and toilet preparations
2500 Bath preparations (includes bath salts and tablets and bubble baths)
2501 Dental preparations and mouthwashes (includes toothpastes, powders, and denture cleaners, mouthwashes, rinses, and breath fresheners)
2502 Deodorants and antiperspirants (includes underarm, feminine hygiene, and foot deodorants)
2503 Face and body makeup
2504 Manicuring preparations (includes nail lacquers and enamels, lacquer, enamel, and cuticle removers)
2505 Perfume, cologne, and toilet water
2506 Shampoos and hair preparations (includes hair and scalp conditioners, permanents, hair dressings, hair coloring preparations, hair sprays, and hair rinses)
2507 Shaving preparations and depilatories (includes preshave and aftershave preparations and styptics)
2508 Skin cleansers, creams, and lotions
2509 Suntan and sunscreen preparations
251* Polishes and sanitizing agents
2510* Detergents, soaps, and disinfectants
25100 Dairy, farm, and food plant cleaners and disinfectants
25101 Machine and hand dishwashing compounds
25012 Mechanics' hand cleaners, except waterless
25103* Metal cleaners
25104* Scouring cleansers and presoaks
25105* Soap bars and flakes, and soap and detergent powders
2511* Polishes and related products
25110 Automobile body polishes and cleaners
25111 Floor polish
25112* Furniture polishes and cleaners
25113 Leather dressings and finishes, except shoe polish
25114* Metal polish (includes polishing cloths and papers)
25115 Shoe polishes and cleaners
2512* Specialty cleaners

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

25120	Glass cleaners
25121*	Laundry and ironing aids
25122	Oven cleaners
25123*	Room deodorizers
25124	Rug and upholstery cleaners
25125	Sweeping compounds
25126*	Toilet bowl cleaners and drain pipe solvents
25127*	Wallpaper, window shade and wall cleaners
25128	Waterless hand cleaners
26	Stone, clay, glass, and concrete products
260*	Concrete, gypsum, and plaster products
2600	Concrete blocks and bricks
2601	Concrete pipe (includes culvert pipe, storm sewer pipe, sanitary sewer pipe, pressure pipe, irrigation pipe and drain tile, manholes and conduits)
2602	Gypsum products (include building plasters and prefabricated building materials)
2603	Lime products (includes agricultural and building lime, hydrated lime, lime plaster, quicklime, mason's lime, and dolomitic lime)
2604	Precast concrete products (includes structural concrete products, septic tanks and burial vaults)
2605	Prestressed concrete products
2606	Ready mixed concrete
261	Cut stone and stone products (includes granite, limestone, marble, and other stone for buildings and monuments)
262*	Flat glass products
2620	Laminated glass
2621	Mirrors
2622	Plate and float glass
2623	Sheet glass
2624	Tempered glass
263	Hydraulic cement
264	Miscellaneous nonmetallic mineral products
2640*	Abrasive products (includes grinding wheels, sticks, stones, hones, balls and bricks, buffing wheels, polishing wheels, and laps)
2641	Asbestos products (includes brake linings and pads, shingles and clapboard, floor tile, textiles, insulation sheet, wallboard and pipes, and felts)
2642	Gasket, packing, and sealing devices
2643*	Ground or treated minerals
2644	Mineral wool products (includes fiber, batts, blankets, rolls, blocks and boards for structural, industrial, and equipment insulation)
2645	Nonclay refractories
2646	Statuary and art goods
265*	Pottery and related products
2650	Ceramic food utensils (includes tableware and cookware)
2651	Chemical, technical, and industrial pottery ware
2652	Decorative pottery ware
2653	Porcelain electrical supplies
2654	Vitreous plumbing fixtures, accessories, and fittings
266*	Pressed or blown glass and glassware
2660	Chemical, technical, and industrial glassware
2661	Decorative glassware
2662	Glass containers
2663	Lighting and electronic glassware
2664	Table and kitchen glassware
267*	Structural clay products
2670	Brick and structural clay tile
2671	Ceramic pipe and drain tile
2672	Ceramic wall and floor tile
2673	Clay refractories
2674	Vitrified clay sewer pipe and fittings
27*	Textile mill products (this category includes products from both natural and synthetic minerals)
270*	Finished textile products
2700*	Bleached and white finished fibers, yarn, and fabrics

APPENDIX III.—*Alphabetical list of chemical use applications, with associated codes in lexical order*—Continued

2701*	Other finished fibers, yarn, and fabrics (includes flameproofing, rotproofing, mercerizing, embossing, antistatic finishing, creaseproofing, soilproofing, waterproofing, etc.)
2702*	Plain dyed and finished fibers, yarn, and fabrics
2703*	Printed and finished fabrics
271*	Floor coverings (textile)
2710	Miscellaneous carpet, rugs, and mats (includes knitted, braided, hooked, needlepunched, paper yarn, and vegetable fiber floor coverings)
2711	Tufted carpet and rugs
2712	Woven carpet and rugs
272*	Knitting mill products
2720	Hosiery
2721	Knitted fabrics (includes greige goods, backing and lining fabrics and upholstery fabrics)
2722	Knitted outerwear
2723	Knitted underwear
273*	Miscellaneous textile products
2730*	Coated fabrics, except rubberized (includes coatings of vinyl, pyroxylin, polyurethane, polyolefins, polyamides, fluoride polymers, etc.)
2731	Cordage and twine
2732	Felt goods
2733	Jute goods
2734	Lace goods
2735*	Nonwoven fabrics and products
2736	Padding and upholstery filling
2737*	Processed textile waste (includes recovered fibers, flock, and oakum)
2738*	Scouring and combing mill products (includes scoured wool, tops and noils, nubs and slubs)
2739*	Tire cord and fabrics
274	Narrow fabric mill products
2740	Braided narrow fabrics
2741	Covered rubber threads
2742	Woven narrow fabrics
275*	Weaving mill products (includes natural fabric, synthetic fabrics, and natural/synthetic blends)
276*	Yarn and thread mill products (includes spun yarn, rewound, plied and novelty yarn, textured yarn, thrown filament yarn, and thread)
28*	Transportation equipment and facilities (covers the use of chemicals in the construction, operation and maintenance of transportation equipment and facilities)
280*	Aircraft and parts
281*	Guided missiles and space vehicles and parts
282*	Miscellaneous transportation equipment (includes recreational vehicles, golf carts, snowmobiles, all-terrain vehicles, and tanks)
283*	Motor vehicles and equipment (includes automobiles, trucks and buses, and parts and accessories)
284*	Motorcycles, bicycles, and parts
285*	Railroad cars and equipment (includes trollery cars and subways)
286*	Ships and boats
287*	Transportation facilities
2870*	Transportation equipment service and repair facilities
2871	Transportation terminals (includes airports, docks, and train and bus stations)

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Federal Register

TUESDAY, JULY 25, 1978
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

HEALTH MAINTENANCE ORGANIZATIONS

Continued Regulation of HMO's and Other Entities

[4110-85]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Subpart I—Continued Regulation of Health Maintenance Organizations and Other Entities

AGENCY: Public Health Service, HEW.

ACTION: Final regulation.

SUMMARY: This rule sets forth the enforcement and compliance procedures with respect to health maintenance organizations (HMOs) and other entities subject to title XIII of the Public Health Service Act (the act), which fail to comply with the assurances which they have given the Secretary under the act.

EFFECTIVE DATE: August 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Ann R. Haendel, Division of Health Maintenance Organizations, Qualification and Compliance, Office of Health Maintenance Organizations, 5600 Fishers Lane, Parklawn Building, Room 16A-08, Rockville, MD. 20857, 301-443-2778.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published on September 17, 1976, in the FEDERAL REGISTER (41 FR 40292-95) which proposed procedures for continued regulation of HMOs and other entities subject to title XIII of the Public Health Service Act (the act). Interested persons were invited to submit written comments, suggestions, or objections. Nine organizations submitted comments on or before the deadline and one comment was received following the comment period. All comments were considered in developing this final regulation. Shortly after the notice of proposed rulemaking was published, title XIII of the act was amended by Pub. L. 94-460, the HMO Amendments of 1976.

This regulation implements the requirements of those amendments and contains changes made as a result of the public comments. Comments requesting greater specificity were appropriately incorporated in this regulation. Suggested changes in provisions required by statute were rejected. Other relevant comments are summarized as follows:

1. Four commenters suggested changes in the handling of reporting requirements described in § 110.903(b). Their comments related to the lead time for reports, and one of the four suggested that there be a 30 day comment period prior to the adoption of final reporting requirements. Also, the proposed regulation provided that notices of new reporting requirements under section 110.903(b) be published in the FEDERAL REGISTER at least 90 days prior to their effective date. The Secretary has carefully considered the suggested comment period as well as the advisability of the 90 day notice interval. He has, however, concluded that their adoption would have unnecessarily limited his administrative discretion in matters such as enforcement proceedings under § 110.904, and, therefore, has adopted neither.

2. Ten organizations commented on the enforcement provisions of § 110.904. Five of the organizations expressed concern over the provision that any person or entity may file complaints against an HMO. The proposed regulations have not been changed in this respect, since the Secretary's concern is with the HMO's compliance with applicable requirements, not with who brings these matters to his attention. It is also noted that if the commenters' concern was over the filing of frivolous complaints, the Secretary can summarily dispose of them.

3. Six commenters expressed concern that the HMO would not receive a full copy of the complaint. Since an actual copy of the complaint may contain facts and allegations not necessary in order for an HMO to submit a responsive report under § 110.904(b) or to take corrective action (for example, where a complaint has been filed by an HMO employee who might be subject to retaliatory action by the HMO, the Secretary believes that release of the complainant's name may not be necessary), the regulation has been changed to indicate that the Secretary will provide the HMO with a full statement of the pertinent facts and of the matters the Secretary is investigating.

4. Three comments expressed concern over the decisionmaking process of § 110.904 as proposed and requested that a meeting between the Secretary and the HMO be prescribed prior to issuing a determination under this section. Other comments suggested that the effective date of any determination be set sufficiently in advance so as to permit the HMO an opportunity to appeal. With respect to the initial determination of non-compliance, the regulation now provides that before this determination is made the HMO will be given a full statement of the pertinent facts and of the matters being investigated and an opportunity to respond. (§ 110.904(b)). With respect to a determination that an HMO is no longer a qualified HMO, the regulation provides that the Secretary will notify an HMO of the basis for any determination of non-compliance, and that the Secretary will grant the HMO 30 days or such longer time as the Secretary may determine to be reasonable, to initiate and carry out corrective action. Where appropriate, the Secretary will give the HMO the opportunity to submit for his approval proposed methods for achieving compliance (§ 110.904(c)). In addition, the effective date of a revocation of qualification is prescribed as the 5th working day after the HMO receives the notice of revocation (§ 110.905(d)). In light of these provisions and the Secretary's intention to make available to HMO's a further administrative review before revoking qualification where he deems this review to be appropriate (for example, where there are factual issues in dispute), it is the Secretary's view that the concerns noted above have been adequately addressed.

5. Two organizations commented on the provision of § 110.906 (now numbered as § 110.905) requiring notification of HMO members of a revocation of qualification. Since section 1312 of the act, as amended, requires this notification, this final regulation retains the provision.

6. One organization sought to expand the basis for waiving assurances in § 110.908 (now § 110.907) to include a waiver in certain circumstances of the requirement that an HMO offer the full range of basic health services. Since an HMO may not retain its qualification if the Secretary waives any of its assurances regarding its compliance with section 1301 of the act (which includes the requirement for offering all basic health services), this suggestion has been rejected. In addition, the regulation has been clarified to indicate that if the Secretary waives any of these assurances he will also revoke the HMO's qualification.

Since section 1312 of the act has been amended, it is believed that the "suspension" of qualification is without statutory basis; therefore, provisions regarding "suspension" have been deleted from this final regulation.

In addition, a new remedy has been added at § 110.904(d)(3) which provides for the reimbursement of members of an HMO for their expenses in obtaining health services which, due to the HMO's failure to provide basic or supplemental health service in accordance with assurances given to the Secretary, they secured other than through the HMO or for which the HMO imposed a charge in a manner inconsistent with these assurances. Although this provision was not included in the September 17, 1976, Notice of

Proposed Rulemaking, it is included in this final regulation without advanced notice, since it is among those remedies which were generally referred to in the 1976 Notice as being available to the Secretary, and is, therefore, within the scope of the subjects and issues involved therein.

The Assistant Secretary for Health for the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby amends 42 CFR by adding a new Subpart I.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 26, 1978.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: July 18, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart I—Continued Regulation of HMO's and Other Entities

Sec.
110.901 Purpose and applicability.
110.902 Compliance with assurances.
110.903 Reporting requirements.
110.904 Enforcement procedures.
110.905 Effect of revocation of qualification for purposes of section 1310.
110.906 Reapplication for qualification.
110.907 Waiver of assurances.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301-1316, as amended, 90 Stat. 1945-1960 (42 U.S.C. 300e-300e-15).

Subpart I—Continued Regulation of Health Maintenance Organizations and Other Entities

§ 110.901 Purpose and applicability.

This subpart applies to any entity which was determined by the Secretary to be a qualified health maintenance organization (HMO) under subpart F of this part, or which provided written assurances to the Secretary as a condition for receiving financial assistance under subparts C, D, or E of this part, and sets forth procedures for enforcing the assurances given to the Secretary by these entities.

§ 110.902 Compliance with assurances.

Any entity subject to this subpart shall comply with the assurances which it provided to the Secretary, unless compliance is waived under § 110.907.

§ 110.903 Reporting requirements.

Entities subject to this subpart shall submit:

(a) The reports which may be required by the Secretary under § 110.108(o), and,

(b) Any additional reports the Secretary may reasonably require.

§ 110.904 Enforcement procedures.

(a) *Complaints.* Any person, group, association, corporation, or other entity may file a written complaint with the Secretary with respect to the compliance of any entity with assurances it gave to the Secretary under this part. A complaint shall state the grounds and underlying facts of the complaint, the names of all persons involved, and that all appropriate grievance and appeals procedures established by the entity and available to the complainant have been exhausted.

(b) *Investigations.* The Secretary may initiate investigations when, based on a report, a complaint, or any other information, he has reason to believe that an entity subject to this subpart is not in compliance with any assurances it gave to the Secretary under this part. The Secretary will notify the entity in writing when an investigation has been initiated. He will include in this notice a full statement of the pertinent facts and of the matters being investigated, and a statement that the entity may submit to him within 30 days from the date of the notice a written report concerning these matters. The Secretary will obtain any information he considers necessary to determine the issues and may employ site visits, public hearings, or any other procedures he considers appropriate to obtain this information.

(c) *Determinations and notifications by the Secretary.* (1) *Determinations.* On the basis of his investigation, the Secretary will determine whether the entity has failed to comply with any assurances it gave to the Secretary under this part. The Secretary will publish in the FEDERAL REGISTER a notice regarding each determination of noncompliance. In the case of a qualified HMO, a determination of noncompliance shall not affect its status as a qualified HMO, unless the Secretary makes the further determination described in paragraph (d)(1) of this section.

(2) *Notification of determination; corrective action.* The Secretary will notify the entity in writing of his determination. This notice shall specify the manner in which the entity has not complied with its assurances and shall direct the entity to initiate corrective action which the Secretary deems necessary to bring the entity into compliance. The entity shall initiate this corrective action within 30 days of the date on which the notice is issued by the Secretary or within any longer period which the Secretary determines to be reasonable and specifies in the notice. The entity shall carry out the corrective action within the period specified for that purpose by the Secretary. In the notice, the Secretary may provide the entity an opportunity to submit for his approval proposed methods for achieving compliance.

(d) *Remedies.*— (1) *Qualified HMO's:* If the Secretary determines that a qualified HMO (A) has failed to initiate corrective action in accordance with paragraph (c)(2) of this section, or (B) has not carried out or refuses to carry out corrective action in accordance with paragraph (c)(2) of this section, the Secretary will, for purposes of section 1310 of the act, revoke the HMO's qualification and will notify the HMO of this action. The Secretary shall publish in the FEDERAL REGISTER each determination under the subparagraph. A revocation under this subparagraph shall have the effect described in § 110.905. Within 15 days after the date a notice of revocation is issued by the Secretary, the HMO shall, in a notice written in readily understandable language, describe the reasons for the determination that it is not a qualified HMO and shall send the notice to:

(i) The members of the HMO;

(ii) Each employer or public entity which has offered membership in the HMO in compliance with section 1310 of the act; and

(iii) Each lawfully recognized collective bargaining representative or other employee representative which represents the employees of the employer or public entity.

(2) *Other entities.* If, in the case of an entity which received a grant, loan, or loan guarantee under this part, the Secretary determines that it (A) has failed to initiate corrective action in accordance with paragraph (c)(2) of this section, or (B) has not carried out or refuses to carry out corrective action in accordance with paragraph (c)(2) of this section, he may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished the Secretary respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under title XIII for the grant, loan, or loan guarantee.

(3) *Reimbursement of members for services improperly denied or for charges improperly imposed.* If, in the case of an HMO with respect to which a determination of non-compliance

has been made under paragraph (c)(1) of this section the Secretary also finds that the HMO has failed to provide or arrange for health services for its members in accordance with assurances given by the HMO to him under this part, or that the HMO has provided health services but has charged the member in a manner inconsistent with these assurances, he may, in addition to the remedies listed in paragraph (d) (1) and (2) of this section, require the HMO to reimburse its members for the expenses of securing basic or supplemental health services which because of this noncompliance the members obtained other than through the HMO or for which it charged the member. The provisions of this subparagraph shall apply without regard to when the HMO failed to comply with the appropriate assurances.

§ 110.905 Effect of revocation of qualification for purposes of section 1310.

When an HMO's qualification is revoked under § 110.904(d)(1):

(a) The HMO may not seek inclusion in employees' health benefits plans under subpart H of this part.

(b) With respect to employers including the HMO in the health benefits plan offered their employees, the HMO is not a qualified HMO for purposes of subpart H of this part. Following the effective date of revocation, the inclusion of the health maintenance organization in an employees' health benefits plan will be disregarded for purposes of determining whether, and to what extent, the employer is subject to subpart H of this part, and will not constitute compliance with the requirement of subpart H of this part.

(c) The HMO is not a qualified HMO for purposes of the financial assistance programs under subparts C, D, and E of this part until it is, in accordance with § 110.906, again qualified under subpart F of this part.

(d) The revocation of qualification shall be effective on the 5th working day after the HMO receives the notice.

§ 110.906 Reapplication for qualification.

An entity whose qualification as an HMO has been revoked by the Secretary for purposes of section 1310 of the act may, after completing the corrective action required under § 110.904(c)(2), reapply for a determination of qualification in accordance with the procedures specified in subpart F of this part.

§ 110.907 Waiver of assurances.

The Secretary may release an entity from compliance with any assurances given under this part for good cause shown, consistant with the purpose of title XIII of the act, except that upon the waiver of any assurance regarding the HMO's compliance with section 1301 of the act, the Secretary will revoke the qualification of the HMO unless the waiver is based on paragraph (c) of this section. Grounds upon which the Secretary will find good cause include, but are not limited to, the following:

(a) The entity has filed for reorganization under Federal bankruptcy provisions and the reorganization can only be approved with the waiver of the assurances;

(b) State laws governing the entity have been changed after it signed the assurances so as to prohibit the entity from being organized and operated in a manner consistent with the signed assurances, except to the extent that the changes would be superseded under the authority of section 1311 of the act; or

(c) Qualification requirements have been changed by a law of the United States.

[FR Doc. 78-20507 Filed 7-24-78; 8:45 am]

federal register

TUESDAY, JULY 25, 1978
PART IV

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

DEREGULATION OF THE MEXICAN DUCK

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Deregulation of the Mexican Duck

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that the Mexican duck (*"Anas diazi"*) is not in danger of extinction or likely to become endangered so as to be endangered or threatened as defined in the Endangered Species Act of 1973. Therefore, this species is removed from the list of endangered and threatened wildlife and plants. This action is being taken after careful review of the best available scientific data. Mexican-like ducks found within the United States will remain under the effective management and conservation provisions of the Migratory Bird Treaty Act of 1918. The Service finds (1) no population of Mexican ducks or mallard X Mexican ducks intergrades have any threat to their continued existence, (2) bases on recent information, the original reasons for the 1967 listing of *"Anas diazi"* are now known to have been incorrect, and (3) a more appropriate level of protection can be provided under the Migratory Bird Treaty Act of 1918 than under the Endangered Species Act of 1973.

DATE: This rule becomes effective on August 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 60579-60580) a notice of status review of the Mexican duck. A proposal to deregulate the Mexican duck pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq., was published March 31, 1978 (43 FR 13592-13594). That proposal summarized the factors that had led the Service to list the Mexican duck in 1967 under the Act of October 15, 1966 (80 Stat. 926). A summary of the most current (January 1978) information was also presented to indicate that sufficient evidence was then on file to support the proposal for the deregulation of this duck. That proposal summarized the five criteria for section 4(a) of the act as they pertained to the Mexican duck, specified the effects of deregulation, and solicited comments, suggestions, objections, and factual information from interested persons. Section 4(b)(1)(A) of the act requires that the Governor of each State or Territory within which the native species of wildlife is known to occur be notified and be provided 90 days to comment before any such species is determined to be endangered or threatened or removed from the list. Letters were sent to the Governors of Arizona, New Mexico, and Texas on December 5, 1977, conveying the notice of status review and on April 7, 1978, for the proposed rulemaking. All public comments received by June 20, 1978, were considered by the Service along with all reports, publications, and other documentation on the Mexican duck. Twenty-one comments to the proposal were received from 3 States, 3 other Federal agencies, and 15 citizens or private organizations.

Summary of Comments

Arizona, New Mexico and Texas supported the proposed deregulation of the Mexican duck. Various reports were provided by these States on surveys and other field work conducted by their biologists over the past few years. The U.S. Forest Service and the Bureau of Reclamation also supported this proposal. The latter agency stated "* * * this action is in the best interest of maintaining an up-to-date and accurate listing of threatened and endangered species." The Arizona Wildlife Federation, Douglas Sportsman's Club and Safari Club International also supported this measure, as did several members of Women Involved in Farm Economics. Dr. John Aldrich (Washington, D.C.) supported the proposal and, based upon current information, wrote "* * * that the statement on the status of the Mexican Duck which I prepared for the 'Red Book' (Committee on Rare and Endangered Wildlife Species, Etc., 1965, 1966), and which was the basis for the original Interior Department listing of the Mexican Duck as 'endangered', is [now] unjustified." The above statement referred to in the "Red Book" was as follows: "Endangered because of drainage of suitable marsh habitat *throughout range* and hybridization with Common Mallard in the United States" (emphasis added). Drs. A. G. Canaris (University of Texas at El Paso) and L. L. Short (American Museum of Natural History, New York) both supported the proposal. Dr. Short, a recognized world expert on avian hybridization and speciation, also noted the problem the Service would have in trying to maintain purity of strains or subspecies around the world that were naturally interbreeding with other forms of the same species (conspecifics). The Service recognizes that situations where two conspecific subspecies of animals naturally interbreed are of very common occurrence throughout the world.

The Bureau of Land Management did not concur with the Service's proposed action. That agency believed that the Service's rationale required additional support for the position maintained by various ornithologists that *diazi* is a subspecies of *platyrhynchos*. The Service did investigate other scientific methods of corroborating Dr. Hubbard's work that was cited in the proposal as background. First, as background, several other waterfowl taxonomists had proposed as early as 1956 that the Mexican duck was a subspecies of the common mallard. However, until 1977 no large scale, in-depth analysis of hybridization in these ducks had been published. The American Ornithologists' Union's Committee on Classification and Nomenclature of North American Birds did not have sufficient data and an accompanying analysis until late 1977 to adequately judge the situation.

Dr. Hubbard's method of using a "hybrid index" is a well recognized statistical method for analyzing hybridization. Finally, the Service found that all presently known methods of karyotyping, allozymic variation analysis, and protein analysis would not provide sufficiently reliable insight as to the taxonomic relationship between *diazi* and *platyrhynchos*. Most of these methods have great difficulty in separating congeneric, let alone conspecific, taxa.

The Bureau of Land Management also cited two earlier (1970) papers on Mexican ducks as being in contradiction with Hubbard's findings. One of these was by Dr. Aldrich, whose more recent opinion is summarized above. The other paper cited was an unpublished master's thesis at New Mexico State University. That thesis (as in many other papers known to the Service) reported visual field observation as the basis for estimating the percentage of "pure" versus "hybrid" nesting ducks in the southwestern United States. Dr. Hubbard's study has shown that these ducks are difficult to identify correctly even in the hand, let alone through telescopes or binoculars. All reports of observations of "Mexican ducks" in the United States and northern Mexico must now be interpreted to be of only "Mexican-like ducks". (The term "Mexican-like duck" refers to the duck typically

found from northern New Mexico to southern Durango that at least superficially resembles pure *Anas platyrhynchos diazi*.) Finally, the Bureau urged the Service to provide additional data so that it could support the Service's proposal. We have provided a sufficient summary, in our view, of these data in this final rulemaking. Further supporting documentation to these summaries is available upon request.

The Fund for Animals (fund) strongly objected to the proposed action by the Service. The central theme of the fund's objection was that the Mexican duck would not be afforded any further protection under the Act. The Service contends that this duck would not have been listed in 1967, if the data now available had been known then. The Service also pointed out in the proposal that these ducks would still be federally protected, conserved and managed in the United States by the Migratory Bird Treaty Act of 1918 (40 Stat. 755; 16 U.S.C. 707-711). The level of protection afforded these ducks under the Endangered Species Act is not warranted.

Several other points were raised by the fund. Their letter indicated that there was an unfounded "claim that the species has recovered sufficiently to be considered out of danger * * *." The fund repeatedly referred to the estimated 100 phenotypically pure Mexican ducks in the United States as being a "population" worthy of protection. The term "phenotypic" was also misinterpreted or ignored in some statements by the fund in claiming that a number of "pure Mexican ducks" still existed in the United States. The fund also stated that habitat changes had been made by agricultural interests in violation of the Endangered Species Act of 1973. The hybridization with the common mallard "especially," was cited by the fund as the "major factor in the decline of the Mexican ducks." Pressure from hunting interests was alleged by the fund to be the major force in the Service's actions in this matter. In their summary, the fund stated "* * * the plight of the Mexican ducks has worsened, not improved, in recent years." The fund's position was supported by 12 other organizations belonging to Monitor.

The Service responds to the above specific points as follows: First, the Act defines a species under section 3 as:

> The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

Phenotypes are not, under this definition, permitted to be listed. Otherwise, member of the cinnamon phases of the black bear (*Ursus americanus*), blue phases of the lesser snow goose (*Chen caerulescens caerulescens*), or "Baltimore" orioles found in the zone of intergradation between that subspecies (*Icterus galbula galbula*) and the western "Bullock's" orioles (*Icterus galbula bullockii*) could all be candidates for listing because of their rarity in some segments of those species' populations. Phenotypes, such as the "Mexican ducks" in the United States., are not interbreeding solely among themselves, since they are only identifiable segments of the entire population, just as brown-eyed and blue-eyed individuals are phenotypic segments of the human species.

The three phenotypes found in the zone of intergradation (see map, 43 FR 13593) are the two parental forms (*Anas platyrhynchos platyrhynchos* and *Anas platyrhynchos diazi*) and the intergrade form. In the 1960's the New Mexico Department of Game and Fish attempted to propagate and release pure Mexican ducks from what they thought were genotypically pure stock from the United States and Mexico. This stocking program was abandoned when the offspring of such matings showed obvious hybrid characteristics. The Service now estimates that there is only a very remote possibility (perhaps 1 in 10,000 or 100,000) that any genotypically pure Mexican ducks are present in the United States or northern Chihuahua, Mexico. Such individuals would only be the result of chance recombination of genes from non-genotypically pure parents.

The Service has no data demonstrating a decline in the total United States or Mexican populations of the Mexican ducks or the hybrids. On the contrary, data now available shows at least a stable population in most areas and an increase in overall distribution of these ducks in Arizona and Texas. In a May-June 1978 survey conducted by the National Audubon Society the total minimum population of Mexican and Mexican-like ducks was estimated to be 55,500 in Mexico. These ducks were most commonly found in agriculture areas, which again demonstrates the adaptability of this duck to changing environments.

The interbreeding between the common mallard and the Mexican duck has, by all reliable estimates, been taking place for many hundreds, if not thousands, of years. The zone of interbreeding was restricted to the narrow band of habitat along the Rio Grande in New Mexico and western Texas prior to agricultural practices by man, particularly in the first half of this century. These activities reduced the natural wetlands but increased the available food supplies and created new, artificial wetlands. The Mexican and Mexican-like ducks in the United States and Mexico began using these small impoundments and irrigation ditches. The Service knows of no water projects or other activities started or completed since passage of the present act that may have adversely affected these ducks or their habitats. The ducks nesting from northern New Mexico to Chihuahua have always been uncommon simply because of the general lack of sufficient water.

The Environmental Defense Fund (EDF) strongly opposed the Service's proposed deregulation of the Mexican duck based largely on the legal precedent it would, in their view, establish. EDF made some thoughtful statements that the Service also agrees should be a part of the policy of the endangered species program. Their letter stated "that other conspecific subspecies may be abundant, even extraordinarily abundant, is simply irrelevant, as a legal matter, to the question whether the Mexican duck subspecies (or some population thereof) should be considered endangered." EDF incorrectly assumed that the Service was implying in the proposed action that, because of the abundant population of mallards (estimated in North America to be about 9 million birds in May 1978), the Mexican duck subspecies was not worthy of protection under the act. One has only to carefully examine the entire list of endangered and threatened wildlife and plants (42 FR 36420-36431, July 14, 1977) to find abundant examples of subspecies being listed where other conspecific subspecies are not. The latter are frequently very abundant; the former are threatened with extinction or becoming endangered. The Service considered the threats to just the intergrade population of Mexican-like ducks (including the resident nesting mallards) from northern New Mexico to Chihuahua and Durango. After an extensive search, the Service could find no evidence of threats to the continued existence of this population of ducks. On the contrary, a stable or increasing population with an expanding range was well documented.

The EDF also raised the question of the red wolf (*Canis rufus*) compared to the Mexican duck. The wolf population in the southern United States was greatly reduced first by man's activities. It is now being further threatened by genetic swamping from both coyotes (*Canis latrans*) and stray dogs (*Canis* sp.). The population density of any surviving wolves has been so low that these animals are now forced to select other more abundant and related species for mates. This is not the

case with the ducks under discussion here. The definitions of subspecies and species used by most zoologists includes the concept of "freely interbreeding individuals." Dr. Hubbard's study shows that there have not been any reproductive isolating mechanisms established between the mallard and Mexican duck. Subspecies in contact with other conspecifics will always freely interbreed, otherwise they would not be considered conspecific.

A further concern expressed by EDF was that the Service would not protect U.S. segments of a species (or subspecies) that was relatively abundant outside the United States. EDF then cited the listing of several animals as indicators of the existence of such a policy by the Service. The Everglade kite (*Rostrhamus sociabilis plumbeus*) was one example cited. This subspecies is restricted to Florida. The endangered American crocodile (*Crocodylus acutus*) is only listed for Florida. The discrete U.S. population is separated by the Florida Straits from any significant genetic influence from the rest of the crocodile population. The listing of the gray wolf (*Canis lupus*), as well as the bald eagle (*Haliaeetus leucocephalus*) and the grizzly bear (*Ursus arctos horribilis*), involve remnants of once large and wide-ranging populations. The Service interprets the act as not being applicable to listing a "population" of a few pairs of a species (or subspecies) that have only a peripheral range in the United States.

That the Mexican duck in central Mexico has survived in such numbers as are now indicated is impressive. The ducks are very adaptable to man's agricultural practices throughout their range. No evidence of threats from hunting or habitat loss have been found for any significant portion of the Mexican duck or mallard X Mexican duck populations.

Several individuals expressed opposition to the Service's proposal. Dr. F. R. Gehlbach (Waco, Tex.) cited four reasons for opposing this action: (1) Increase in incidence of intergradation "* * * due to the activities of man in historic time," (2) populations of intergrades and hybrids are valuable to science, (3) decreasing numbers of intergrades in the U.S. from habitat losses, and (4) the preservation of the U.S. populations as "* * * extraordinary fine, natural laboratory examples of how man modifies natural gene pools." The Service recognizes the scientific value of preserving populations of naturally interbreeding subspecies or species. However, to be listed under the Act, that population (and not just one phenotype) must meet the criteria of Section 4(a) as summarized in the proposal. The Service has no data, nor was any documentation reported by Dr. Gehlbach or any other commentor on this proposal, to show a significant increase in mallards or intergrades or a significant decrease in Mexican-like ducks over any given time period. The first U.S. specimen of a Mexican-like duck was an intergrade collected in 1893 at El Paso, Tex. Modifications of gene pools as a result of man's activities have been well documented in several other bird groups in the Great Plains. Eastern and western woodland species have come into extensive contact with their counterparts in the new woodlands planted by man in the former prairies. The Service does not consider those interbreeding bird populations as candidates for listing under the Act because of the man-related changes in their specific gene pools.

Mr. Tony Gallucci (Alpine, Tex.) opposed the proposal on the basis, in part, that Dr. Hubbard's study presented little data on Texas Mexican-like ducks. He correctly pointed out that Presidio County, Tex., has one of the largest concentrations of Mexican-like ducks in the United States and that those birds are probably the purest population in the United States. Purity of these ducks is not of concern to the Service in this case, only the threats, if any, to the continued existence of the whole intergrade population, or any significant portion thereof.

Another individual, Richard M. Kerr (Littleton, Colo.), cited past Federal and State actions to protect and manage the Mexican-like ducks in the United States based upon an "erroneous" listing made in 1967. He felt that the Service's proposed action would nulify those past actions to benefit the ducks and, perhaps in some cases, could cause suits to be filed against these Federal or State agencies about those past actions. The best scientific data available in 1967 clearly supported listing *"Anas diazi"* as endangered. However, more recent data and analysis of the status of these ducks has definitely changed those veiws held 10 years ago. The Service acknowledges that a large amount of time, money, and effort has been spent in the past on behalf of the Mexican duck by Federal, State, and private organizations. However, this past level of conservation effort, by itself, does not meet any of the Act's factors for continued classification as endangered (or threatened). In fact, the Service must respond to the wealth of evidence on the current status of this duck which was generated by the attention given it while thought to be endangered.

Dr. W. A. Davis (Tucson, Ariz.) objected to the Service's proposal because he believed some of the current data considered by the Service was erroneous. In particular, he cited the ratio of integrades to "pure" Mexican ducks in Cochise County, Ariz., as reported by himself, and, separately, a graduate student. As the Service has noted in this summary of comments, positive identifications of "Mexican ducks" in the United States are not possible unless the birds are in hand, and even then birds that phenotypically resemble Mexican ducks are almost certainly not genotypically pure. Visual observations, such as those reported by Dr. Davis, cannot be used to determine ratios or degree of intergradation. Such observations do demonstrate that the occurrence of males of the common mallard phenotype decreases rapidly as one proceeds southward into Chihuahua, Mexico.

Conclusion

The Service has summarized and responded to all substantive comments received on this proposal as accurately and completely as possible. In an effort to insure that the public record is clear on the reasons the Service takes this final action, a summary of the most important points is given below:

(1) *Anas platyrhynchos diazi* has been recently determined by ornithologists to be a subspecies of the common mallard (*Anas platyrhynchos*). A large zone of intergradation between these two subspeicies exists from northern New Mexico to southern Durango, Mexico. In this region, annual precipitation levels are the lowest for any segment of the geographical distribution of either of the two subspecies and range from 6-12 inches per year, versus 12-35 inches per year north and south of this zone. Consequently, there are fewer wetlands—natural or man made—in this zone. The overall population of ducks in this zone in May 1978 is conservatively estimated at 5,000. The phenotypes in this zone are: mallard, mallard X Mexican duck intergrade, and Mexican duck. No evidence of any threats, as required in section 4(a) of the Act, were found as to the continued existence of this mixed population, or a significant segment of it. In fact, the population, at least in the United States is expanding its historical range into southeastern Arizona and western Texas.

(2) Apparently *genotypically* pure populations of *diazi* are found only in the central highlands of Mexico. A survey in May-June 1978 indicated a population in excess of 50,000 birds was present just prior to the nesting season. These ducks are also adapting to local agricultural practices, as in the United States, by feeding extensively in local farmlands. The ducks in this area, as elsewhere, are very wary and not easily approached. No threats

to the continued existence of this population of ducks, or any significant segment of it, has been documented.

(3) The present information now available indicates that the loss of habitat throughout its range and hybridization with the mallard are no longer valid reasons for listing as was thought in 1967. The effect of natural habitat losses on these ducks has been found to be negligible, since the birds have readily moved into agricultural areas where surface water and food supplies are sometimes more consistently available. The interbreeding of two subspeices of the same species is an expected natural phenomenon. Protection under the definition of "species" in the Act for one phenotype in a geographic segment or population of the same species is not permissible.

After a thorough review and consideration of all information available, the Director has determined that neither the Mexican duck nor its intergrade population with the common mallard is threatened with becoming endangered or in danger of becoming extinct throughout all or a significant portion of its range under any of the five factors described in section 4(a) of the Act, as summarized in the proposed rulemaking (43 FR 13592-13594) and above.

EFFECTS OF THE RULEMAKING

The Mexican-like ducks in the U.S. will remain protected, be more appropriately managed, and receive conservation benefits from the Migratory Bird Treaty Act of 1918. Populations and environmental changes will continue to be closely monitored both in the U.S. and Mexico under the Service's migratory bird program. Benefits, such as State cooperative agreement funding for further research, and protection, such as provided by sections 7 and 9, will no longer be afforded the Mexican duck under the Endangered Species Act of 1973.

EFFECT INTERNATIONALLY

In addition to this action, the Service presently intends, by October 15, 1978, to send to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora a proposal to remove the Mexican duck from appendix I to that Convention. This proposal is contingent upon comments received to the Service's advance notice of potential rulemaking in the May 3, 1978, FEDERAL REGISTER (43 FR 19176-19190).

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is filed in the Service's Washington Office of Endangered Species. This assessment addresses this action as it involves the Mexican duck and is the basis for the decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, § 17.11(i) is amended by deleting the Mexican duck (*"Anas diazi"*) from the list of endangered and threatened wildlife.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 19, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-20562 Filed 7-24-78; 8:45 am]

Federal Register

TUESDAY, JULY 25, 1978
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Proposed Procedures for Development of Standards

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, 809, 861]

[Docket No. 78N-0002]

MEDICAL DEVICES

Proposed Procedures for Development of Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency proposes to prescribe procedures for the initiation, development, establishment, amendment, and revocation of performance standards for medical devices including in vitro diagnostic products. The proposed rule would implement section 514 of the Federal Food, Drug, and Cosmetic Act. FDA is also amending the in vitro diagnostic products regulation to revoke the special procedures for establishing, amending or repealing standards and conform the regulations to the Medical Device Amendment of 1976.

DATES: Written comments by September 25, 1978. It is proposed that the regulation become effective 30 days after publication of the final order in the FEDERAL REGISTER. These amendments will be effective upon the effective date of the final regulation.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

James McCue, Bureau of Medical Devices (HFK-310), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 ("the amendments") (Pub. L. 94-295), amending the Federal Food, Drug, and Cosmetic Act ("the act"), became law on May 28, 1976. Included in the amendments is new section 514 (21 U.S.C. 360d), which sets forth the requirements for performance standards. Section 513 of the act (21 U.S.C. 360c), describing the process for classifying medical devices, states that performance standards are required for devices for which general controls alone are insufficient to provide reasonable assurance of safety and effectiveness and for which sufficient information is available to establish a performance standard to provide such assurance. (See the classification procedures proposal published in the FEDERAL REGISTER of September 13, 1977 (42 FR 46028) for further explanation of the classification process and the determination of safety and effectiveness).

A device classified into class II must conform to an applicable performance standard promulgated in a regulation establishing the standard. Regulations establishing performance standards may not take effect before 1 year after the date of their publication in the FEDERAL REGISTER unless (1) the Commissioner determines that an earlier effective date is in the public interest, or (2) such standard has been established for a device which, upon the effective date of the standard, has been reclassified from class III to class II. Effective dates will be established so as to minimize economic loss consistent with the public health and safety.

Devices for which performance standards are required, however, will also continue to be subject to the general provisions of the act, as under class I. These provisions include controls prohibiting adulterated or misbranded devices; registration provisions; premarket notification; banned device provisions; defect notification and other remedies; records and reports; restrictions on sale, distribution, and use; and good manufacturing practices.

Proposed part 861 explains the requirements for the development of standards set forth in section 514 of the act. Although that section describes the process in detail, the Commissioner believes that further elaboration in the form of a procedural regulation is necessary to facilitate the initiation, development, establishment, amendment, and revocation of performance standards. In the future, FDA may publish a notice further describing the agency's policy concerning development, and FDA acceptance, of voluntary standards and how this policy relates to the development of performance standards under proposed part 861.

HISTORY OF STANDARDS DEVELOPMENT

The Food and Drug Administration (FDA) has been engaged for several years in activities designed to encourage the development of voluntary performance standards for medical devices. A review of FDA medical device performance standards activities was described in a notice published in the FEDERAL REGISTER of August 12, 1976 (41 FR 34099). This notice explained that FDA has emphasized development of standards for currently marketed devices. Manufacturers could voluntarily use these standards in designing and manufacturing their products, and users of medical devices could rely upon such standards as guidelines for purchasing devices.

Prior to the amendments, standards procedures for medical devices which are in vitro diagnostic products had been governed by 21 CFR 809.30, which FDA proposes to revoke (although 21 CFR 809.10 relating to labeling of in vitro diagnostic products will remain in effect until further notice).

In accordance with the procedures of section 809.30, calls for data and information were published in the FEDERAL REGISTER as follows: 38 FR 13573, May 23, 1973, Detection of Measurement of Glucose or Total Sugars; November 2, 1973, 38 FR 30290, Calibrators for Quantitative Clinical Chemistry Analytical Procedures; March 8, 1974, 39 FR 9217, Measurement of Hemoglobin in Human Blood; April 16, 1975, 40 FR 17058, Nontreponemal Tests for Syphilis; September 18, 1975, 40 FR 43045, Antirubella Antibody Tests.

After reviewing the information received, standards development activities were initiated in cooperation with members of the FDA Diagnostic Products Advisory Committee, the Center for Disease Control (CDC), and the National Bureau of Standards (NBS).

On June 28, 1974 (39 FR 24136), FDA proposed a standard for products used to detect or measure glucose or total sugars. After considering comments received on the proposed standard, the standard was revised to include only those products intended for the quantitative measurement of glucose in plasma or serum. The revised standard, including an evaluation procedures document, will be made available to interested persons in the near future. In addition, the work on the other four standards is continuing and will also be made available upon completion. Further development of standards for in vitro diagnostic products will proceed according to section 514 of the act and procedures to be promulgated under Part 21 CFR 861.

Because voluntary standards help to assure the safety and effectiveness of marketed devices, FDA will continue to promote their use. Voluntary or privately recognized performance standards may serve as informal standards before FDA classifies the devices and during the development of formal standards under proposed part 861. Voluntary standards will be especially important for devices that are not candidates for immediate standards development under proposed part 861. Moreover, under proposed § 861.20 (21 CFR 861.20) voluntary standards may be the basis of subsequent formal FDA standards.

DESCRIPTION OF THE PROPOSED REGULATION

Proposed § 861.1 (21 CFR 861.1) sets forth the general purpose and scope of the standards procedures regulations.

Proposed § 861.5 describes how the Commissioner of Food and Drugs will solicit support in the development of performance standards from as broad a base of potentially interested persons as possible.

Proposed § 861.7 (21 CFR 861.7) sets forth specific requirements to be included in a performance standard if the Commissioner believes such provisions are necessary to assure the safety and effectiveness of the device:

1. Provisions concerning the construction, components, ingredients, and properties of the device and its compatibility with power systems and connections to such systems;

2. Provisions for testing the device for safety and effectiveness;

3. Provisions for measuring the performance characteristics of the device;

4. Provisions requiring that the results of the tests of the device required to be made under item (2) show that the device conforms to the standard for which the tests were required;

5. A provision requiring that the sale and distribution of the device be restricted to the extent permissible under section 520(e) of the act;

6. Provisions for including in the labeling information on the installation, maintenance, operation, and use of the device.

Additional requirements may be necessary depending upon the nature of the device. While all of the requirements in proposed § 861.7 may not be required for every standard, the section provides a reasonably comprehensive list of the types of requirements that may be imposed.

Proposed § 861.7(b) requires that a performance standard include, where necessary to provide reasonable assurance of its safe and effective peformance, provisions concerning the design of the device. Although the term "performance standard" reflects a preference for standards that allow for the use of technological alternatives, the legislative history indicates that Congress intended that a standard include design-related requirements likely to assure safe and effective performance and to reduce human errors (H.R. Rep. No. 853, 94th Cong., 2d Sess. 26 (1976)).

Proposed § 861.7(f) requires, where necessary, that manufacturers certify that a device conforms to a standard. Manufacturers may certify conformity either by letter or by a tag or label affixed to the device or packaging for a device. The Commissioner may require that the certification be addressed to the ultimate user, to the Commissioner, or to both.

PROCEDURES FOR STANDARDS DEVELOPMENT AND PROMULGATION

Proposed § 861.20 provides a summary of the procedures by which a performance standard for a device is to be developed and promulgated.

Paragraph (d) of proposed § 861.20 describes the options available to the Commissioner in developing a standard. The Commissioner may:

1. Authorize another Federal agency to develop a standard;

2. Accept an existing standard as a proposd standard or as a basis upon which a proposed standard may be developed;

3. Accept one or more offers to develop a standard submitted in accordance with the requirements of proposd §§ 861.26 and 861.28 (21 CFR 861.26 and 861.28, respectively); or

4. Develop a proposed standard himself, using FDA expertise. In the interest of economy and better control over the standards development process and consistent with the provisions of sections 514(a)(5)(A) and 514(c)(4) of the act, the Commissioner would prefer the development of a standard by a Federal agency with appropriate personnel, expertise, and resources to develop the proposed standard.

The Commissioner will give priority to a standard that already exists, or that has been developed, issued, or adopted if he determines that such standard is based upon scientific data and information and has been subjected to adequate scientific consideration. The Commissioner will prefer such a standard only if he determines that it would adequately protect the public health.

Using the criteria specified in proposed §§ 861.26 and 861.28, the Commissioner will accept an offer or offers to develop a proposed standard only if he has neither authorized development of a standard by a Federal agency nor accepted an existing standard.

After considering all options, if no offers to develop a standard are submitted, if none is accepted because none satisfies the requirements of this proposed regulation, or if an offeror cannot, will not, or should not continue developing a standard, FDA may develop the standard under the procedures in proposed § 861.30(a) (21 CFR 861.30(a)). This authority is in addition to the authority of the Commissioner to develop a standard in lieu of accepting an offer to do so.

Proposed § 861.22 (21 CFR 861.22) describes the "invitation" process in detail, i.e., the process whereby the Commissioner invites any person (including any Federal agency) to submit an existing standard as a proposed performance standard or to offer to develop such a standard.

An invitation to submit or develop a proposed performance standard will include a statement of the risks associated with the device and a summary of data indicating the need to develop performance standard. The statement of risks may be a summary of the opinions of experts within FDA or outside the agency. The statement of risks will include, where available, references to published information about experience with the device. The summary of data upon which the need to develop a standard was determined will be sufficient to advise interested persons of the problems to be addressed by a performance standard. Both the statement of risks and the summary of data will include pertinent portions of the recommendations of classification panels with respect to the device and will list the characteristics of the device which necessitated the establishment of a performance standard.

The legislative history indicates that an invitation to submit or develop a proposed performance standard is not to be construed as a Federal procurement (H.R. Rep. No. 853, 94th Cong., 2d Sess. 26 (1976)). Therefore, an invitation will not be subject to the requirements of section 8 of the Small Business Act (15 U.S.C. 637) (relating to procurement contracts) or 41 U.S.C. 5 (relating to the requirement of advertisement before contracting).

The Food and Drug Administration has already developed or assisted in the development of performance standards for several medical devices. Under proposed § 861.24 (21 CFR 861.24), such standards may be accepted as proposed performance standards. As mentioned previously, several "voluntary" medical device standards have also been developed or are in the process of being developed by various standards—setting organizations. The Commissioner may accept a voluntary standard, wholly or partially, as a proposed performance standard or as the basis for such a standard, if he determines that it has been subjected to appropriate scientific consideration.

Proposed § 861.26 discusses the information that must accompany an offer to develop a proposed standard submitted in response to an invitation published pursuant to proposed § 861.22. The information required relates generally to the offeror's expertise, financial ability, potential conflicts of interest, the procedures the offeror will utilize in developing the standard, and environmental impact information regarding compliance with Federal and local laws. Such information will include plans for involving interested members of the public, a description of the facilities and

equipment to be used, time estimates and detailed schedules, testing methods, and a request for contribution if desired.

Under proposed § 861.26(a)(3), the Commissioner will require disclosure of potential conflicts of interest. In order to assure that only the offers of qualified persons are accepted, proposed § 861.26(a)(3) requires offerors and appropriate directors, consultants, and employees of offerors to submit relevant information about their financial stability, expertise, experience, and potential conflicts of interest (including financial interests in the device for which a proposed standard is to be developed or in the device industry generally, all current industrial or commercial affiliations, sources of research support, and companies in which they have financial interest). These disclosure requirements will permit the Commissioner to disqualify offerors whose efforts might be impeded by financial or other conflicts of interest. In instances in which more than one offer is submitted by technically competent persons, the Commissioner will prefer an offeror with no proprietary interest in the device for which a standard is to be developed.

The Commissioner may accept several offers to develop a proposed performance standard under §§ 861.24 and 861.26. The Commissioner may also take advantage of the expertise of several parties to develop portions of a standard that will then be utilized in promulgating a single cohesive document.

Proposed § 861.28 describes the process by which the Commissioner will accept offers to develop performance standards.

Propsed § 861.30 describes the requirements of the standards development process, including the important requirement that the public be encouraged to participate in the development of the standards. Also, a person developing a standard must provide the Commissioner with information on the course of the development effort. The developer must submit progress reports and must permit FDA to inspect its facility and developmental activities to enable the agency to make a progress evaluation.

Under proposed § 861.32 (21 CFR 861.32), the Commissioner may agree to contribute to an offeror's cost in developing a performance standard insofar as the contribution complies with Federal procurement regulations (41 CFR Part 1-15).

Proposed § 861.34 (21 CFR 861.34) provides for the amendment or revocation of standards. The rulemaking procedures of 21 CFR 10.40 apply to proposed § 861.34. Petitions for amendment or revocation must be in the form of citizen petitions as described in 21 CFR 10.30. In addition, the petition must identify the specific device and standard for which amendment or revocation is sought. Under proposed § 861.34(c), a proceeding to amend or revoke a standard will be subject to both review by an advisory committee established under proposed § 861.38 (21 CFR 861.38), if requested and granted, and to the effective date requirements of proposed § 861.36. A notice of proposed rulemaking to amend or revoke a standard will include information on the degree of risk or illness to be eliminated or reduced.

Proposed § 861.36 (21 CFR 861.36) sets forth the requirements regarding effective dates of establishment, amendment, and revocation of performance standards. The Commissioner will designate in effective date according to his best judgment after reviewing all available data; an economic impact statement, when prepared in the course of proposing a regulation, will serve as one of the bases for determining the effective date.

Proposed § 861.36(b) sets forth the general principle that a performance standard regulation may not take effect before 1 year after its date of publication because conformity to a standard may take some time. Congress intended the provisions requiring the Commissioner to consider economic factors in determining an effective date to allow depletion of inventories of class II devices which, while not conforming to newly promulgated standards, do not present a risk. Congress clearly intended to discourage stockpiling of nonconforming devices; however, because on their effective date, performance standards will apply to all devices in commercial channels. (H.R. Rep. No. 853, 94th Cong., 2d Sess. 30 (1976)).

Under proposed § 861.36(b), the Commissioner may accelerate the effective date when necessary to protect the public. If the standard applies to a device reclassified from the premarket approval category (class III) to class II, the effective date of the reclassification may coincide with the effective date of the standard.

Under proposed § 861.36(c), a proposed amendment to a standard may be made effective immediately upon its publication if it is determined, after an opportunity for an informal hearing is afforeded, that such action would be in the public interest. A device that does not conform to the amended standard, however, could continue to the marketed until final action is taken on the proposed amendment. This expedited approach is intended to stimulate desirable changes in products subject to standards without penalizing manufacturers of products on the market that conform to existing standards (H.R. Rep. No. 853, 94th Cong., 2d Sess. 30 (1976)).

Proposed § 861.38 provides that the Commissioner may refer a proposed regulation to an advisory committee, other than a classification panel established under section 513 of the act, for a report and recommendation on matters requiring scentific judgment. The legislative history indicates that Congress intended that the act's prohibition of the use of classification panels as standard-setting advisory committees not preclude the appointment of individual members of classification panels to any such advisory committees (H.R. Rep. No. 853, 94th Cong., 2d Sess. 30 (1976)).

Sections 809.30 through 809.35 (21 CFR 809.30—809.35) provide a procedure for establishing, amending, or repealing standards for in vitro products. Because of section 514 of the act (21 U.S.C. 360d), however, those procedures are inadequate and are not followed. Accordingly the Commissioner proposes to amend section 809 by revoking sections 809.30 through 809.35 and making other changes in part 809 to confrom with the revocation.

Proposed Effective Date

The Commissioner proposes to make the final regulation relating to this proposal effective 30 days after the date the final regulation is published in the Federal Register.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 513, 514, 701, 52 Stat. 1049-1051 as amended, 1055-1056 as amended, 90 Stat. 540-552 (21 U.S.C. 351, 352, 360c, 360d, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that chapter I of title 21 of the Code of Federal Regulations be amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In part 16, by adding new § 16.1(b)(31) as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(31) Section 861.36, relating to an immediate effective date for proposed

regulations amending performance standards for medical device products.

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PART 20—PUBLIC INFORMATION

2. In part 20, by adding new § 20.100(c)(32) as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(32) Data and information submitted in offers to develop a proposed performance standard for medical device products, in § 861.26 of this chapter.

PART 809—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

3. In part 809:

a. In § 809.3, by revising paragraph (a) and revoking and reserving paragraph (c) as follows:

§ 809.3 Definitions.

(a) "In vitro diagnostic products" are those reagents, instruments and systems intended for use in the diagnosis of disease or other conditions, including the determination of the state of health, in order to cure, mitigate, treat, or prevent disease or its sequelae. Such products are intended for use in the collection, preparation and examination of specimens taken from the human body. These products are devices as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act), and may also be biological products subject to section 351 of the Public Health Service Act.

* * * * *

(c) [Reserved]

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b. In § 809.4, by revoking paragraph (b), revising the text of paragraph (a) and removing the paragraph designation. As revised § 809.4 reads as follows:

§ 809.4 Confidentiality of submitted information.

Data and information submitted under § 809.10(c) which is shown to fall within the exemption established in § 20.61 of this chapter, shall be treated as confidential by the Food and Drug Administration and any person to whom it is referred. The Commissioner will determine whether information submitted will be treated as confidential in accordance with the provisions of part 20 of this chapter.

§§ 809.30, 809.34, and 809.35 [Revoked]

c. By revoking Subpart D, consisting of §§ 809.30, Procedure for establishing, amending or repealing standards, 809.34, Court appeal, and 809.35, Regulatory action.

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4. By adding new part 861 to read as follows:

PART 861—PROCEDURES FOR STANDARDS DEVELOPMENT

Subpart A—General

Sec.
861.1 Purpose and scope.
861.5 Statement of policy.
861.7 Content of standards.

Subpart B—Procedures for Standards Development and Publication

861.20 Summary of standards process.
861.22 Invitation for a standard.
861.24 Existing standard as a proposed standard.
861.26 Offer to develop a proposed standard.
861.28 Acceptance of offer to develop a standard.
861.30 Development of standards.
861.32 Contribution by the Commissioner to the costs of developing a proposed standard.
861.34 Amendment or revocation of a standard.
861.36 Effective dates.
861.38 Standards advisory committees.

AUTHORITY: Secs. 501, 502, 513, 514, 701, 52 Stat. 1049-1051 as amended, 1055-1056 as amended, 90 Stat. 540-552 (21 U.S.C. 351, 352, 360c, 360d, 371).

Subpart A—General

§ 861.1 Purpose and scope.

(a) This part implements section 514 of the act with respect to the initiation, development, establishment, amendment, and revocation of performance standards applicable to devices intended for human use.

(b) Performance standards may be established for (1) class II devices, (2) class III devices which, upon the effective date of the standard, are reclassified into class II, and (3) class III devices, as a condition to premarket approval under section 515 of the act in order to reduce or eliminate a risk or risks associated with such device.

§ 861.5 Statement of policy.

In carrying out his duties under this section, the Commissioner shall, to the maximum extent practicable:

(a) Use personnel, facilities, and other technical support available in other Federal agencies;

(b) Consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

(c) Invite participation, through conferences, workshops, or other means, by representatives of scientific, professional, industry, or consumer organizations who can make a significant contribution.

§ 861.7 Contents of standards.

Performance standards established under this part shall include such provisions as the Commissioner determines are necessary to provide reasonable assurance of the safety and effectiveness of the devices for which they are established. Where necessary to provide such assurance, a standard shall include (but is not limited to):

(a) Provisions establishing performance criteria for the device;

(b) Provisions concerning the design, construction, components, ingredients, and properties of the device, and its compatibility with power systems and connections to such systems;

(c) Provisions regarding the manufacturing processes and quality control procedures applicable to the device;

(d) Provisions requiring testing of the device on either a sample or a 100-percent basis by the manufacturer, the Commissioner, and/or a third person to assure that the device conforms to the standard;

(e) Provisions requiring that the results of each test or of certain tests of the device show that the device conforms to the portions of the standard for which the test or tests were required;

(f) Provisions requiring that manufacturers certify to purchasers and/or to the Commissioner that the device conforms to the applicable performance standard;

(g) A provision requiring that the sale and distribution of the device be restricted in accordance with section 520(e) of the act;

(h) Provisions requiring the use, and prescribing the form and content, of labeling for the proper installation, maintenance, operation, and use of the device. Such provisions may include warnings; storage and transportation information; expiration dates; the date and place of manufacture; the results which may be expected if the device is used properly; the ranges of accuracy of diagnosis; instructions regarding the proper care of, and the proper components, accessories, or other equipment to be used with, the device; and statements that the device is considered safe and effective only when used by, or in the treatment of, a patient who has been tested by particular designated procedures by a person skilled in the procedure and found to have an illness or condition for which the device is indicated.

Subpart B—Procedures for Standards Development and Publication

§ 861.20 Summary of standards process.

The procedure by which a performance standard for a device may be developed and promulgated is as follows:

(a) The Commissioner shall initiate a proceeding for the development of a performance standard for a device by publishing in the FEDERAL REGISTER a notice of opportunity to request reclassification of the device (within 15 days of the date of publication of the notice) in accordance with § 860.130 of this part (proposed in the FEDERAL REGISTER of September 13, 1977 (42 FR 46028)).

(b) If, after publication of a notice under paragraph (a), the Commissioner receives a request to change the classification of the device, the Commissioner shall, within 60 days of the publication of the notice, by order published in the FEDERAL REGISTER, either deny the request or give notice of his intent to initiate a change in the classification.

(c) If the Commissioner determines that the device will remain in class II, the Commissioner shall publish in the FEDERAL REGISTER a notice in accordance with § 861.22 inviting any person, including any Federal agency, to submit within 60 days after the date of publication, either an existing standard as a proposed performance standard in accordance with § 861.24, or an offer to develop such a standard in accordance with § 861.26.

(d) Following publication of the invitation for submission of standards in accordance with paragraph (c) of this section and the expiration of the 60-day period provided therein, the Commissioner shall:

(1) If the Commissioner determines that a performance standard can be developed by a Federal agency, based on the personnel, expertise, and resources of the agency, authorize the agency to develop a proposed performance standard or, if the Commissioner determines that an agency within the Department can develop such a standard, have that agency develop a proposed performance standard; or

(2) Accept as a proposed performance standard or as a basis upon which such a standard may be developed, an existing standard submitted in response to the invitation for standards or a standard that has been issued or adopted (or is being developed) by any Federal agency or any other qualified entity if the Commissioner has determined that such standard is based upon scientific data and information and has been subjected to adequate scientific consideration; or

(3) If the Commissioner has neither authorized development of a standard by a Federal agency nor accepted an existing standard in accordance with paragraphs (d) (1) and (2) of this section, accept one or more offers to develop a proposed standard submitted in accordance with § 861.26 and acceptable under § 861.28; or

(4) If neither an offer to develop a standard or an existing standard is submitted or, if submitted, none is accepted or, if accepted, the Commissioner determines that the offeror is unwilling or unable to continue to develop the performance standard or that the performance standard developed is unsatisfactory, proceed to develop a proposed standard in accordance with § 861.30(a); or

(5) Take other appropriate action to facilitate development of a performance standard for the device.

(e) After publication of a notice inviting the submission of an existing standard as a proposed performance standard or an offer to develop such a standard in accordance with § 861.20, the Commissioner may either:

(1) Publish in the FEDERAL REGISTER, in a notice of proposed rulemaking in accordance with § 10.40 of this chapter, a proposed performance standard for the device obtained in accordance with paragraph (c) of this section (the notice of proposed rulemaking shall include proposed findings with respect to the degree of risk of illness or injury the proposed standard is designed to eliminate or reduce and the benefit to the public from the device); or

(2) Terminate the proceeding to develop and promulgate a performance standard by publishing in the FEDERAL REGISTER a notice to that effect, together with the reasons therefor and, unless such notice is issued because the device is a banned device under section 516 of the act, initiate a proceeding under section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

(f) If the Commissioner initiates a rulemaking proceeding under paragraph (e)(1) of this section, the commissioner shall, after the expiration of the period for comment and after considering any comments received:

(1) Complete the proceeding and establish the performance standard for the device in accordance with this part and § 10.40 of this chapter; or

(2) Terminate the proceeding by publishing in the FEDERAL REGISTER a notice announcing such termination and the reasons therefor and, unless the proceeding is terminated because the device is a banned device, initiate a proceeding in accordance with section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

§ 861.22 Invitation for a standard.

The notice to be published in the FEDERAL REGISTER in accordance with § 861.20(c) inviting offers to develop a performance standard shall contain the following information:

(a) The time period within which the standard is to be developed; this period may be extended by the Commissioner for good cause;

(b) A description or other designation of the device for which a performance standard may be established;

(c) A statement of the risks associated with use of the device and which are intended to be controlled by a performance standard, including pertinent portions of panel classification recommendations with respect to the device;

(d) A summary of the data from which the Commissioner has determined a need for initiation of the proceeding to develop a performance standard, including pertinent portions of the recommendations of classification panels with respect to the device;

(e) Identification of any existing performance standard known to the Commissioner which may be relevant to the proceeding; and

(f) The approximate number of products within the generic type of device which may be subject to the performance standand.

§ 861.24 Existing standard as a proposed standard.

As provided in § 861.20(d)(2), the Commissioner may accept as a proposed standard or as a basis upon which a proposed standard may be developed, an existing standard or a standard that has been issued or adopted (or is being developed), if the Commissioner determines that such standard is based upon scientific data and information and has been subjected to adequate scientific consideration.

(a) Existing standards submitted under this section shall include:

(1) A description of the procedures used to develop the standard and a list of the persons and organizations that participated in its development to the extent that such information is available;

(2) An identification of the specific portions of the existing standard that the person submitting the standard believes are appropriate for adoption as, or inclusion in, the proposed standard; and

(3) A summary of the test data, or, if requested by the Commissioner, all such data or other information supporting the specific portions of the standard identified by the person submitting the standard in accordance with paragraph (a)(2) of this section.

(b) The Commissioner shall publish a notice in the FEDERAL REGISTER stating either that the Commissioner has

accepted as a proposed standard an existing standard or one that has been issued or adopted (or is being developed), or that an existing standard is not acceptable, together with the reasons therefor.

§ 861.26 Offer to develop a proposed standard.

(a) As provided in § 861.20(d)(3), the Commissioner may accept one or more offers to develop a proposed standard. Such offers shall include:

(1) Information on the offeror's expertise and experience that qualifies the offeror to develop a proposed standard for the particular device;

(2) Sufficient information on the offeror's financial stability to establish capability to conduct adequate standards development either with or without contribution by the Commissioner to the offeror's costs;

(3) Information relating to any potential conflicts of interest with respect to development of the standard on the part of the offeror, its directors or officers, or any employees or consultants who may participate in the development of the standard, including any financial interest in the particular device or in the device industry generally, current industrial or commercial affiliates of the offeror, current sources of financial support for research, and all business entities in which the offeror has a financial interest;

(4) Information regarding the offeror's compliance with Federal, State, and local environmental regulations;

(5) A detailed description of the procedures the offeror intends to utilize in developing the standard;

(6) A description of how the offeror intends to provide interested persons adequate and reasonable notice of their right and opportunity to participate in the development of the standard;

(7) A description of the method whereby interested persons who respond to the notice may participate, either in person or through correspondence, in the development of the standard;

(8) A statement describing the facilities or equipment the offeror intends to utilize in developing the standard, and how the offeror intends to gain access to them;

(9) A realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the procedure;

(10) A description of the method the offeror intends to use to acquire test data or other information needed to support the standard;

(11) A description of the method the offeror intends to use to maintain records of the development of the standard and other relevant matters and to make such records available for disclosure during development, and a schedule of periodic reporting requirements;

(12) If the offeror desires, a request for contribution by the Commissioner to the offeror's cost of developing the standard, which shall include:

(i) A list of the items of expense for which contribution is sought and the amount requested for each item;

(ii) A justification of each item of expense, including and explanation of how the contribution is likely to insure development of a more satisfactory standard;

(iii) A statement that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record standard development costs and expenditures; and

(iv) A statement requesting an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

(b) Information included in an offer to develop a proposed standard is to be made available to the public only if the offer is accepted, or if required under the provisions of part 20 of this chapter.

§ 861.28 Acceptance to offer to develop a standard.

(a) In determining whether to accept an offer to develop a performance standard under § 861.20(d)(3), the Commissioner shall evaluate the qualifications of the offeror on the basis of the offeror's financial stability, expertise, experience, and potential conflicts of interest. In choosing among competing offerors, the Commissioner shall prefer offerors with no financial interest in the particular device for which a proposed standard is sought or in the device industry generally.

(b) If the conditions provided in § 861.20(d)(3) have been met, and one or more offers that satisfy the requirements of § 861.26 have been submitted, the Commissioner shall accept one, and may accept more than one, offer to develop a proposed standard after determining that:

(1) The offeror is qualified and technically competent to undertake and complete the development of an appropriate standard within the time specified by the Commissioner; and

(2) The offeror will comply with the requirements of § 861.30 in developing the standard.

(c) The Commissioner shall publish in the FEDERAL REGISTER the name and address of each person whose offer to develop a standard is accepted and a summary of the terms of the accepted offer, including a statement of the extent to which the Commissioner will contribute, if at all, to the cost of developing the proposed standard in accordance with § 861.32.

(d) If the Commissioner does not accept an offer to develop a proposed standard submitted in response to an invitation published in accordance with § 861.20, he shall publish in the FEDERAL REGISTER a notice of that fact together with the reasons for his decision.

§ 861.30 Development of standards.

(a) Any person, including the Commissioner and any Federal agency, engaged in the development of a proposed standard under this section shall:

(1) Support its proposed performance standard by such test data or other documents or materials as the Commissioner may reasonably require;

(2) Provide interested persons an opportunity to participate in the development of the standard by accepting comments and, where appropriate, holding public meetings on issues relating to development of the standard. Notice of the opportunity to participate in the development of the standard shall be furnished in a manner reasonably calculated to reach a substantial portion of interested persons. This requirement shall be satisfied by the Commissioner or any Federal agency by publishing such a notice in the FEDERAL REGISTER;

(3) Maintain records disclosing the course of development of the proposed standard, the comments and other information submitted by any person in connection with such development (including comments and information regarding the need for a standard), and such other information as may be required by the Commissioner to evaluate the standard.

(b) Persons engaged in the development of a standard under this section under the terms of an offer accepted by the Commissioner in accordance with § 861.28 shall, in addition to complying with paragraph (a) of this section:

(1) Submit progress reports on a monthly basis or as otherwise required by the Commissioner;

(2) Cooperate fully with the Commissioner and permit duly authorized representatives of the Commissioner to inspect their facilities and developmental activities to determine whether satisfactory progress is being made toward completion of the standard in accordance with paragraph (c) of this section.

(3) Developers receiving contributions from the Commissioner toward the cost of developing the proposed standard in accordance with § 861.32 shall:

(i) Submit to the Commissioner a full accounting of such contributions;

(ii) Remit all unexpended amounts to the Commissioner within 60 calendar days after submission of the standard;

(iii) Maintain, for a period of 3 years after submission of the proposed standard, records that fully disclose the total costs and expenditures for the development of the standard and such other records as are necessary to permit an effective audit;

(iv) Grant to the Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, access, for the purpose of audit and examination, to any books, documents, papers, and other records relating to the expenditure of any funds contributed by the Commissioner.

(c) Persons engaged in the development of a performance standard under this section under the terms of an offer accepted by the Commissioner in accordance with § 861.26 shall be considered to be making satisfactory progress toward development of the standard if the Commissioner concludes that the developer can develop an adequate proposed standard in accordance with the terms of the accepted offer within the designated time period. If it appears to the Commissioner that such person is not making satisfactory progress, that person will be afforded an opportunity either to demonstrate ability and willingness to complete the development of the standard within the designated time period or to justify the need for an extension of the development period. After evaluating the information available to the Commissioner to determine whether the person is able and willing to complete development of an adequate proposed standard within the designated time period, the Commissioner shall either terminate the person's role in the development process or extend the period for development of the proposed standard. The Commissioner shall require all persons whose role in the development process is terminated to submit all information, records, and documents in their possession which relate to the development of the proposed standard, and to remit all funds contributed by the Commissioner which have not been expended. The Commissioner shall publish in the FEDERAL REGISTER notice of the Commissioner's determination to terminate the role of any person in the development of a proposed standard, together with the reasons for the Commissioner's action. The Commissioner shall periodically evaluate performance standards to determine whether they should be changed to reflect new medical, scientific, or other technological data.

§ 861.32 Contribution by the Commissioner to the costs of developing a proposed standard.

(a) If the Commissioner accepts an offer to develop a proposed standard, the Commissioner may agree to contribute to the costs of developing the standard if the Commissioner determines that such contribution is likely to result in the development of a more satisfactory standard.

(b) The items of cost toward which the Commissioner may contribute are those allowable direct and indirect costs allocable to the development project as set forth in the applicable subparts of 41 CFR Part 1-15 of the Federal procurement regulations. Typical standards development activities to which the Commissioner may contribute include:

(1) Research and analysis of the existing literature pertaining to the medical device that is the subject of the development effort;

(2) Testing of representative medical devices in support of the development effort;

(3) Preparation of and participation in public review of draft standards.

(c) The items of cost to which the Commissioner may not contribute include:

(1) Costs for the construction or acquisition of any interest in land or buildings;

(2) Costs for the payment of salaries in excess of the amount paid by the offeror at the time immediately preceding the offer, excluding routine increases which may accrue during the development period;

(3) Costs for the payment of items in excess of the offeror's actual cost;

(4) Costs for items with a usable lifespan extending beyond the development period, except that contribution may be made toward the portion of the item's cost allocable to the development of the proposed standard as determined by the difference between the item's estimated market value at the termination of the development period and the total cost of its acquisition; and

(5) Costs determined not to be allowable under generally accepted accounting principles and practices or 41 CFR Part 1-15 of the Federal procurement regulations.

§ 861.34 Amendment or revocation of a standard.

(a) The Commissioner shall provide for periodic evaluation of performance standards to determine whether such standards should be changed to reflect new medical, scientific, or other technological data.

(b) The Commissioner may, on the Commissioner's initiative or upon petition of an interested party, amend or revoke by regulation a standard established under this part.

(c) Petitions to amend or revoke a standard shall:

(1) Identify the specific device and standard for which the amendment or revocation is sought;

(2) Be submitted in accordance with the requirements of § 10.30 of this chapter.

(d) Proceedings to amend or revoke a performance standard shall be conducted in accordance with the rule-making procedures of § 10.40 of this chapter and are subject to the requirements of § 861.38 with respect to referral to standards advisory committees and § 861.36 with respect to effective dates. In addition, a notice of proposed rule-making to amend or revoke a standard shall set forth proposed findings with respect to the degree of risk or illness to be eliminated or reduced and the benefit the public will derive from the proposed amendment or revocation.

§ 861.36 Effective dates.

(a) A regulation establishing, amending, or revoking a performance standard shall set forth the date upon which it shall take effect. To the extent practicable, consistent with the public health and safety, such effective date shall be established so as to minimize economic loss to, and disruption or dislocation of, domestic and international trade.

(b) Except as provided in paragraph (c) of this section, no regulation establishing, amending, or revoking a standard may take effect before 1 year after the date of its publication unless: (1) The Commissioner determines that an earlier effective date is necessary to protect the public health and safety; or (2) the standard has been established for a device that, by the effective date of the standard, has been reclassified from class III to class II.

(c) The Commissioner may declare a proposed regulation amending a standard effective during the period beginning immediately upon its publication in the FEDERAL REGISTER and until the effective date of any final action on the proposal if the Commissioner determines, after affording interested persons an opportunity for an informal hearing conducted in accordance with part 16 of this chapter, that making it so effective is in the public interest. A proposed amendment of a performance standard made so effective may not prohibit, during the period in which it is so effective, the introduction or delivery for introduction into interstate commerce of a device that conforms to the standard without the change or changes provided in the proposed amendment.

§ 861.38 Standards advisory committees.

(a) The Commissioner shall establish advisory committees to which proposed regulations may be referred and these committees shall consider such referrals in accordance with this section and part 14 of this chapter. Such advisory committees, which may not be classification panels, shall be considered ad hoc advisory committees. Their members shall be selected in accordance with §§ 14.82 and 14.84 of this chapter, except that no member may be in the regular full-time employ of the United States and engaged in the administration of the act. Each advisory committee established under this section shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry.

(b) A proposed regulation to establish, amend, or revoke a performance standard shall be referred to an advisory committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment:

(1) On the initiative of the Commissioner, if the Commissioner determines that such referral is necessary or appropriate under the circumstances; or

(2) Upon the request of an interested person in the form of a citizen petition in accordance with § 10.30 of this chapter if submitted within the period provided for comment on the proposed regulation and not determined by the Commissioner to be without good cause or on a matter not involving scientific judgment.

(c) When a proposed regulation is referred to an advisory committee, the Commissioner shall furnish the committee with the data and information upon which the proposed regulation is based. After independently reviewing the materials furnished by the Commissioner and any other available data and information, the advisory committee shall, within 60 days of the referral, submit to the Commissioner a report and recommendation on the proposed regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of the report and recommendation shall be publicly displayed in the office of the Hearing Clerk.

(d) Each proposed regulation establishing a standard published in the FEDERAL REGISTER shall include a call for nominations to the advisory committee for that particular standard.

Interested persons may, on or before September 25, 1978, submit to the Hearing Clerk (HFA-305), Room 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 17, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-20570 Filed 7-24-78; 8:45 am]

Federal Register

TUESDAY, JULY 25, 1978
PART VI

OFFICE OF MANAGEMENT AND BUDGET

■

PROPOSED BUDGET RESCISSION

Report to Congress

OFFICE OF MANAGEMENT AND BUDGET

PROPOSED BUDGET RESCISSION

Report to Congress

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $500 million in unneeded budget authority that was made available to the Department of Labor for advances to the unemployment trust fund and other funds.

The details of the proposed rescission are contained in the attached report.

Jimmy Carter

THE WHITE HOUSE,

July 20, 1978.

[FR Doc. 78-20628 Filed 7-21-78; 12:11 pm]

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Department of Labor:	
	Employment and Training Administration	
	Advances to the Unemployment Trust Fund	
R78-7	and Other Funds.....	500,000

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Tenth special message:		
New items.....	500,000	---
Effect of tenth special message.....	500,000	---
Previous special messages.....	135,923	4,966,813
Total amount proposed in special messages.....	635,923 (in 7 rescissions)	4,966,813 1/ (in 66 deferrals)

1/ This amount represents budget authority except for $14,573,000 consisting of four Department of the Treasury deferrals of outlays only (D78-28B, D78-50, D78-58, D78-66).

Rescission Proposal No: R78-7

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Labor	New budget authority (P.L. _____) $ _____
Bureau Employment and Training Administration	Other budgetary resources 1,980,114,000
Appropriation title & symbol Advances to the Unemployment Trust Fund and Other Funds 1/ 167/80327	Total budgetary resources 1,980,114,000 Amount proposed for rescission $ 500,000,000 2/
OMB identification code: 16-0327-0-1-603	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1978 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: Public Law 94-439 appropriated funds to this account to be used during fiscal years 1977 and 1978 to make advances to the Unemployment Trust Fund and to the Federal Unemployment Benefits and Allowances account whenever regularly available resources in those accounts are insufficient to pay unemployment compensation to individuals when due. In addition, Congress is considering a supplemental appropriation for the Labor Department's Black Lung program (H.J. Res. 945) which would permit advances of these funds to the Black Lung Disability Trust Fund.

Given the reduction in unemployment, a lesser amount of advances than originally estimated will be required. Therefore, a rescission of $500 million is proposed. Adequate budgetary resources are being retained in the account to meet anticipated needs and to provide for contingencies through the end of FY 1978. If there arises no need for the use of these contingency funds, they will lapse at the end of FY 1978.

ESTIMATED EFFECTS: There are no programmatic or budgetary effects that will result from this rescission proposal since the benefit and allowance payments anticipated for the rest of FY 1978 can be made with the remaining funds.

OUTLAY EFFECT: There is no outlay effect of this rescission proposal because the funds could not be used if made available.

1/ This account is the subject of a deferral, D78-55.
2/ This amount was included in a deferral (D78-55) transmitted to the Congress on January 27, 1978.

TITLE I-DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Of the funds appropriated under this head in the Departments of Labor and Health, Education, and Welfare Appropriation Act, 1977, $500,000,000 are rescinded.

[FR Doc. 78-20628 Filed 7-21-78; 12:11 pm]

federal register

TUESDAY, JULY 25, 1978
PART VII

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

■

RECORDKEEPING REGULATIONS

Proposed Revision and Notice of Public Hearing

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1602]

RECORDKEEPING REGULATIONS

Proposed Revision and Notice of Public Hearing

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rulemaking and notice of public hearing.

SUMMARY: The Commission proposes to revise its recordkeeping regulations to require certain employers and labor unions to retain lists of applications for employment for 2 years. This action is taken because the Commission has found itself in a position of being unable to secure specific relief for the victims of discrminatory hiring or referral practices. The Commission believes that a recordkeeping requirement would assure more adequate redress for the victims of discrimination. The period for recordkeeping of other documents is proposed to be extended. In addition, the definition of "employee" for reporting purposes is proposed to be modified. A public hearing will be held concerning these matters on Sept. 21, 1978, at 10 a.m. at the GSA auditorium, 18th and F Streets NW., Washington, D.C.

DATES: Comments by Sept. 21, 1978, public hearing Sept. 21, 1978. Proposed rule to be implemented by Nov. 30, 1978. Speaker requests by Sept. 5, 1978.

ADDRESS: Written comments should be addressed to Marie Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506. Speaker requests for public hearing should also be addressed to Ms. Wilson by Sept. 5, 1978.

FOR FURTHER INFORMATION CONTACT:

William Robinson, Assoicate General Counsel, Trial Division, Office of General Counsel, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-6592.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission proposes to amend certain of its regulations on records and reports, 29 CFR 1602.1 et seq. These proposed regulations are published for comment pursuant to the Administrative Procedure Act and section 709(c) of title VII of the Civil Rights Act of 1964, as amended. Also, pursuant to section 709(c) and subpart A of the regulations on records and reports, 29 CFR 1602.2 through 1602.6, the Commission invites interested persons to participate in a public hearing to be held with respect to the proposed regulations and definition change on Sept. 21, 1978, at the GSA Auditorium, 18th and F Streets NW., Washington, D.C., beginning at 10 a.m. Persons desiring to participate in the hearing shall submit a brief written statement as to their position to Marie Wilson, Executive Officer. Other interested persons who do not wish to participate in the hearing may submit written data, views, and argument to Marie Wilson, Executive Officer, by Sept. 21, 1978.

The proposed amended regulations, along with a commentary noting the revisions, are published herein. The thrust of the amendments is to require all respondents subject to the Commission's annual reporting requirements to maintain and preserve applicant records for 2 years, or until the termination of a Commission or court proceeding. The Commission's current regulations require only entities controlling apprenticeship programs to maintain and preserve these records. Additionally, Recordkeeping provisions are modified and made uniform for all records. Records are proposed to be retained for 2 years.

I

The Commission has become increasingly concerned that, in many instances, it has found itself in a position of being unable to secure specific relief for the victims of discriminatory hiring or referral practices. After thoroughly reviewing the problem, the Commission has determined that frequently these discriminatees cannot be identified because respondents have failed to make or keep applicant records. The Commission has therefore concluded that a recordkeeping requirement would assure more adequate redress for the victims of discriminatory hiring or referral practices. Such a requirement is especially essential to effective efforts to eliminate systemic discrimination. See *U.S.* v. *Hazelwood School District*, 433 U.S. 299 (1977), 45 Law Week 4882, 14 EPD 7633.

The Commission deems it inadvisable to include smaller respondents not subject to reporting requirements. Applicant recordkeeping requirements might impose difficult burdens on these respondents, and, as a general rule, it is not likely that there would be large numbers of applicants for positions with these respondents.

The Commission believes that a 2-year period will give the Commission sufficient information to identify discriminatees while not unduly burdening respondents. The period has proved workable with respect to entities controlling apprenticeship programs. The race and ethnic categories referred to are those currently used by the Office of Management and Budget and being used on the most recent EEO report forms.

The pertinent provisions are §§ 1602.13, 1602.27(b), 1602.35(b), 1602.42(b), and 1602.50(b), which require the maintenance of application records; and §§ 1602.14, 1602.28, 1602.36, 1602.43, and 1602.51, which require the preservation of this material.

The Commission has reviewed the proposed applicant flow amendments in light of Executive Order 12044 ("Improving Government Regulations"). The Commission has determined that they fall within the category of "significant regulations." The Commission has also determined that these amendments, as well as other amendments to 29 CFR 1602 and definitional changes to EEO forms discussed herein, do not require regulatory analysis under § 3 of Executive Order 12044. (The Commission's report on this determination is available upon request by writing to Marie Wilson, Executive Officer.)

II

Another substantial revision in recordkeeping proposed by the Commission is the keeping for 2 years of all EEO forms, records for compiling the forms, and records on employees kept in the regular course of business. This 2 year provision is being made uniform for all entities covered by this part 1602. The current regulations place varying requirements on respondents:

Private employers must preserve records for six months (29 CFR §1602.14); entities controlling apprenticeship programs must preserve records for two years and others for one year [29 CFR § 1602.21]; unions must preserve some records for one year and others for six months [29 CFR § 1602.28]; public employers must preserve some records for 3 years and others for 2 years [29 CFR § 1602.30 and 29 CFR § 1602.31(a)]; and public elementary and secondary schools and institutions of higher education must preserve records for two years [29 CFR § 1602.40(a)] and [29 CFR § 1602.49(a)]; and the forms themselves for 3 years [29 CFR § 1602.39 and 29 CFR § 1602.41(a)].

The 2-year period is appropriate because it covers the 300-day statutory period for filing charges, which limitation is effective in many States, and covers the added time required for a Commission investigation and conciliation effort. The proposed revised regulations (with new section numbers) are §§ 1602.14, 1602.21, 1602.28, 1602.36, 1602.43, and 1602.51. A further amendment involves the requirement to retain records until a Title VII lawsuit filed by an aggrieved person or the Government is terminated. Present regulations require that when a charge of discrimination is filed or when a Title VII lawsuit is filed by the Government, records will be retained until the final disposition of the charge or action. Thus, the amendment proposes to require the same record retention in cases where the aggrieved person files a Title VII lawsuit as when the Government does. This similar treatment is proposed in light of the clear intent ot Title VII to facilitate private redress. The pertinent proposed amended regulations are §§ 1602.14(c), 1602.21(c). 1602.28(c), 1602.36(c), 1602.43(c) and 1602.51(c). The Commission has determined that these amendments constitute "significant regulations" under Executive Order 12044.

Other minor changes have been made as follows:

§ 1602.7. Deletion of references to the "100 employee test set forth in § 701(b); deletion of Jeffersonville, Ind., address and substitution of the headquarters address of the Commission and OFCCP. These proposed deletions contain outdated data. Also, the EEO-1 reporting date will be changed from March 31 to May 31.

§ 1602.10. Deletion of reference to "Section 4(c)" of instructions for completion of form. This reference is outdated.

§ 1602.17. Insertion of "or joint labor-management apprenticeship committee".

§ 1602.39. Deletion of reference to the "Commission" since only the Attorney General may move in the United States District Court to compel a public school to file an EEO-5 form.

A section will be added to 29 CFR 1602 incorporating by reference the Commission's employee selection guidelines to the extent that they may be construed as recordkeeping requirements.

The Commission has determined that these minor amendments do not constitute "significant regulations" under Executive Order 12044.

III

Finally, the Commission proposes to revise its definition of "employee."

This is not a change in regulations. The Commission does not believe that the change will affect a significant number of employers. The EEO-1 form covers only employers with 100 or more employees. The definition of employee as it currently appears in the instructions accompanying the EEO-1 form (Standard Form 100) limits the Commission's ability to monitor companies whose relationship with their personnel does not include the withholding of Social Security taxes, such as, for example, real estate agents. "Employee" is defined at p. 5 par. 1(e), Appendix EEO-1 Instruction Booklet as:

* * * [A]ny individual on the payroll of an employer who is an employee for purposes of the employer's withholding of Social Security taxes except insurance salesmen who are considered to be employees for such purposes solely because of the provisions of Section 3121(d)(3)(b) of the Internal Revenue Code * * *.

The Commission, pursuant to section 709(c) of Title VII, promulgated 29 CFR 1602.7. Section 1602.7 states in broad terms who shall file the EEO-1 report. This regulation refers specifically to section 701(b) of Title VII which sets forth an expansive definition of the term "employer" as follows:

The term "employer" means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person * * *.

In comparing the Title VII definitions with the language quoted from the Instruction Booklet, the Commission observes that as a party in the joint reporting committee with the Office of Federal Contract Compliance Programs (hereinafter OFCCP), it has, in fact, limited its ability to monitor the EEO profiles of employers as defined in Title VII via the EEO-1 instructions. The Commission no longer desires to adhere to such a limitation.

The Commission believes that the case law supports an expanded definition of employee to include real estate agents and certain other so-called "independent contractors." An agency responsible for administering a statute has the authority to define the limits of terms contained in that statute, especially in defining the term "employee." See *NLRB* v. *United Insurance Co.*, 390 U.S. 254 (1968); *NLRB* v. *Hearst Publications*, 322 U.S. 111 (1944); *Walling* v. *Rutherford Food Corp.* 156 F. 2d 513 (10th Cir. 1946). The following tests would support an expanded definition of "employee" and would be used to require reporting on form EEO-1 or other appropriate forms.

"Economic Realities" Test

In *NLRB* v. *Hearst Publications, Inc.*, 322 U.S. 111 (1944), the Supreme Court first enunciated the principle that, for purposes of social welfare legislation, the term "employee" is not to be construed according to its technical meaning, but should be interpreted more broadly in light of the "history, terms, and purposes of the legislation." 322 U.S. 124. In determining whether particular individuals are employees, it is relevant, the court pointed out, that the individuals in question are subject, as a matter of economic fact, to the evils the statute was designed to eradicate and that the remedies it affords are appropriate for preventing them or curing their harmful effects in the special situation." 322 U.S. 127. This has come to be known as the "economic realities" test.[1] Similarly, In *United States*, v. *Silk*, 331 U.S 704 (1974) the court held, in relation to the Social Security Act, that "the terms 'employment' and 'employee' are to be construed to accomplish the purposes of the legislation." 331 U.S. 712.

"Purpose of Statute" Test

An individual may be an employee for one purpose and an independent contractor for another purpose. In *Courtney* v. *United States*, 230 F. 2d 112 (2d Cir. 1956), the Court held that an individual was not an employee for purposes of the Federal Tort Claims Act, although he was, for certain other purposes, an employee under State law. The "purpose of the statute" test has been utilized by the courts in situations calling for common-law principles. See e.g., *McGuire* v. *United States*, 349 F. 2d 644 (9th Cir. 1965); *Westover* v. *Stockholders Publishing Company*, 237 F. 2d 948 (9th Cir. 1956). Thus, under the "purpose of the statute" test, the Commission may treat an independent contractor as covered under Title VII

[1] Numerous recent cases have applied the "economic realities" test in interpreting social welfare legislation. See, e.g., *Goldberg* v. *Wittaker House Cooperative, Inc.* 366 U.S. 28, 33 (1961); *Frohlick Crane Service, Inc.* v. *Occupational Safety and Health Review Commission*, 521 F. 2d 628, 631 (10th Cir. 1975); *Mednick* v. *Albert Enterprises Inc.*, 508 F. 2d 297, 299 (5th Cir. 1975); *Brennan* v. *Gilles & Cotting Inc.*, 504 F. 2d 1255, 1261 (4th Cir. 1974).

and correspondingly to be counted in the employer's statistical report as required by 29 CFR 1602.7.

COMMON-LAW DEFINITION OF "EMPLOYEE"

It appears particularly inappropriate to apply the technical, common-law definition of "employment" to Title VII, since Congress intended that statute to have the widest possible scope. *Sibley Memorial Hospital* v. *Wilson*, 488 F. 2d 1338, 1341, 1342 (D.C. Cir. 1973); *Hackett* v. *McGuire Bros., Inc.* 445 F. 2d 442, 446 (3rd Cir. 1971). Consistent with that approach, a district court in *Mathis* v. *Standard Brands Chemical Industries*, —— F. Supp. —— (D. Ga. 1975), 10 FEP Cases at 297, the only Title VII case directly dealing with this question, applied an "economic realities" test derived from *United States* v. *Silk, supra.* 331 U.S. 704 (1947). The court considered the following factors:

[1] Whether the plaintiff received compensation in the form of salary or wages as opposed to profits derived from a contractual fee, [2] the opportunities to increase profit by management of resources, [3] the degree of control by the manner and method in which the work is performed and [4] the extent to which the plaintiff personally executed his tasks.

Furthermore, even if the law of agency were applicable where there is an attempt by the employer to distinguish between an "employee" and "independent contractor," the Commission may be unnecessarily excluding "employees" from its head count in monitoring certain industries. The essential ingredient in the common law test is the right of the principal to control the manner in which the work is performed. *SIDA of Hawaii, Inc.* v. *N.L.R.B.*, 512 F. 2d 354, 357 (9th Cir. 1975). The critical fact under the common-law test is not the degree of control actually exercised but the degree to which the principal may intervene; *i.e.*, the *right* to control. *Joint Council of Teamsters* v. *N.L.R.B.*, 450 F. 2d 1322, 1327 (D.C. Cir. 1971). Thus, even minimal supervision is consistent with a common-law employment relationship, if no more control is required because of the nature of the work. *McGuire* v. *United States*, 349 F. 2d 644, 646 (9th Cir. 1965). Additionally, in cases where little actual control is exercised because of the nature of the work, the principal's authority to reprimand or otherwise discipline workers with regard to the performance of their assignments becomes important. *N.L.R.B.* v. *United Insurance Company of America*, 390 U.S. 254, 257 (1968); *Joint Council of Teamsters* v. *N.L.R.B., supra*, 450 F. 2d at 1327, and *Associated General Contractors of California, Inc.*, 201 N.L.R.B. 311 (1973).

LEGISLATIVE HISTORY OF TITLE VII

The legislative history of Title VII is also helpful in concluding that an expanded definition of "employee" may be appropriate for monitoring purposes. Congress stated that the term "employee" is defined for the purposes of Title VII in the "manner common for Federal statutes." [2] The "manner common" in the Fair Labor Standards Act, 29 U.S.C. 203, sets forth the definition of "employee" to include "any individual employed by an employer" which is the identical definition contained in Title VII.

Where Congress intended to exclude independent contractors from the definition of "employee," Congress has been explicit; for example, in the National Labor Relations Act, 29 U.S.C. 152 (1974), the term "employee" shall include "any employee, and shall not be limited to the employees of a particular employer * * *, but shall not include * * * any individual having the status of an independent contractor * * *."

INDEPENDENT CONTRACTOR

The Commission has addressed the issue of jurisdiction over "independent contractors" in four previous decisions wherein the Commission has consistently found jurisdiction proper.[3] In Commission Decision No. 71-646, supra, the Commission stated that although a person may have been hired as a free agent on a contractual basis, that person may also be an employee within the meaning of Title VII. In Commission Decision No. 71-708, supra, it was found that the asserted status of a store operator as an independent contractor was immaterial and that the company's control over the work, assignments, and products made it a joint employer with a franchise. Commission Decision No. 74-76, supra, contains particularly broad language with regard to the issue of Commission jurisdiction over alleged "independent contractors":

* * * [A]ssuming arguendo the existence of the independent relationship which Respondents allege, we would still find that liability attaches under Title VII. The question of whether the Charging Party is an employee of either or both Respondents is not germane to a decision on the merits of her claim as an aggrieved person * * *. Title VII gives standing to any person aggrieved by any of the forbidden practices * * *.

In its most recent decision, Commission Decision No. 74-85, supra, the Commission cites *NLRB* v. *Hearst*, wherein the Commission states:

First one must distinguish between the legal relationship ostensibly existing between two parties which governs their rights and responsibilities to each other, and those legal relationships the law will recognize as existing because of economic realities. Cf. *NLRB* v. *Hearst*, 322 U.S. 111 (1944). In furtherance of the remedial purpose of Title VII the particular facts of the case rather than lexical definitions determine whether a person comes under the purview of Title VII * * *.

* * * * *

The fact that Title VII purports to provide remedies for a class broader than immediate employees strongly indicates that the proscriptions contemplated . . . reach beyond the immediate employment relationship. Par. 6415 at 4110.

PROPOSED REVISION

In order to close the intersticein the present definition of "employee" in the appendix to the Instruction Booklet for Form EEO-1, it is proposed that the definition be revised as follows:

The term "employee" means any individual employed by an employer, and includes, but is not necessarily limited to any individual who is an employee for purposes of the employer's withholding of Social Security taxes; it also includes any insurance sales persons who are considered to be employees for such purposes because of the provision of Section 3121(d)(3)(b) of the Internal Revenue Code.

As an alternative, the following language may be inserted:

* * * Code; and any individual in a service relationship wherein the economic facts of the particular relationship make it more nearly one of employment than of an independent business enterprise.

The additional limitations presently set forth in the Instruction Booklet would be retained.[4]

The definition offers the advantage of eliminating the interstice in the present definition while retaining

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[2] See Legislative History of Titles VII and XI of Civil Rights of 1964 at 2027.

[3] See Commission Decision No. 71-646, CCH EEOC Decisions (1973) par. 6207; Commission Decision No. 71-708, CCH EEOC Decisions (1973) par. 6178; Commission Decision No. 71-2088, CCH EEOC Decisions (1973) par. 6250; Commission Decision No. 74076 CCH EEOC Decisions (1974) par. 6446; Commission Decision No. 74-85, CCH EEOC Decisions (1974) par. 6415.

[4] The current definition in the Instruction Booklet contains the following limitations: "The term 'employee' *shall not* include persons who are hired on a casual basis for a specified time, or for the duration of a specified job, and work on remote or scattered sites or locations where it is not practical or feasible for the employer to make a visual survey of the work force within the report period; for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employee's work at the site; persons temporarily employed in any industry other than construction, such as seamen,, longshoremen, waiters, movie extras, agricultural laborers, lumbermen, etc., who are obtained through a hiring arrangement; or persons on the payroll of a temporary service agency for work to be performed on the premises of another employer under that employer's direction and control."

Social Security taxes as a firm guideline in most instances for determining the existence of an employment relationship.

The proposed revised regulations appear below.

Signed this 30th day of June 1978, at Washington, D.C.

For the Commission:

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

PART 1602—RECORDS AND REPORTS

1. Section 1602.1 remains unchanged.

Subpart A—Procedure

2. Sections 1602.2 through 1602.6 remain unchanged.

Subpart B—Employer Information Report

3. Section 1602.7 is revised as follows:

§ 1602.7 Requirement for filing of report.

On or before May 31 each year, every employer who is subject to Title VII, has 100 or more employees for the requisite period of time described in § 701(b) thereof, and is not covered by subparts H, I, J, K, L, or M, infra, shall file with the Commission or its delegate executed copies of "Employer Information Report EEO-1" (also known as Standard Form 100 by Federal contracting agencies) in conformity with the directions set forth in the form and accompanying instruction. Notwithstanding the provisions of § 1602.14, every such employer shall retain at all times at each reporting unit, or at company or divisional headquarters, a copy of the most recent report filed for each such unit and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of Title VII. Appropriate copies of form EEO-1 in blank will be supplied to every employer known to the Commission to be subject to the reporting requirements, but it is the responsibility of all such employers to obtain necessary supplies of same prior to the filing date from the Joint Reporting Committee, EEOC, Washington, D.C. 20506. (The form may also be secured from the Joint Reporting Committee, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C. 20210.

4. Sections 1602.8 and 1602.9 remain unchanged.

5. Section 1602.10 is revised as follows:

§ 1602.10 Employer's exemption from reporting requirements.

If an employer is engaged in activities for which the reporting unit criteria described in the instructions are not readily adaptable, special reporting procedures may be required. In such case, the employer should so advise by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due. If it is claimed that the preparation or filing of the report would create undue hardship, the employer may apply to the Commission for exemption from the requirements set forth in this part.

6. Section 1602.11 remains unchanged.

7. Section 1602.12 remains substantially unchanged and will be renumbered.

Subpart C—Recordkeeping by Employers

§ 1602.13 [Redesignated as § 1602.56]

8. Section 1602.13 is revised and redesignated § 1602.56 and the following new § 1602.13 is added:

§ 1602.13 Records to be made or kept.

Every employer required to file an Employer Information Report EEO-1 shall, beginning Nov. 30, 1978, maintain a list in chronological order containing the names and addresses of all persons who have applied for employment including the dates on which such applications were received. Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not Hispanic Origin), "Black" (not of Hispanic Origin), "Hispanic," "Asian or Pacific Islander," or "American Indian or Alaskan Native." The methods of making such identification are set forth in the appendix to the instructions accompanying Report EEO-1.

The words "applied," "applicant," and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who filed a formal application, or in some informal way indicates a specific desire to be considered for employment. A person who simply appears to make an informal inquiry about the company, or about employment in general, is not considered to be an applicant.

9. Section 1602.14 is revised as follows:

§ 1602.14 Preservation of records made or kept.

(a) Every employer subject to § 1602.13 shall preserve for a period of two years from the date of filing of the EEO-1 form such records as are necessary for completion of the form in accordance with the instructions accompanying such form.

(b) Every employer subject to § 1602.13 shall preserve the list of applicants for a period of 2 years from the date the application was received. The Commission recommends that records as to the racial or ethnic identity of any individual accepted for employment be kept separately from the employee's basic personnel file or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

(c) Any other personnel or employment records made or kept by any employer (including but not necessarily limited to forms, applications, and records having to do with hiring, promotion, demotion, layoff or termination, rates of pay or other terms of compensation and selection for training or apprenticeship) shall be preserved by the employer for a period of two years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of termination. Where a charge of discrimination has been filed or an action has been brought against an employer under title VII, by the Commission or an aggrieved person, the respondent employer shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The terms "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by the aggrieved person and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. All records made or kept pursuant to § 1602.13 shall also be preserved. The date "final disposition of the charge or the action" means the date of expiration of the statutory period within which the aggrieved person may bring an action in a United States District Court or, where an action is brought under Title VII against an employer by the aggrieved person or the Commission, the date on which such litigation is terminated by entry of a final order and time for filing a notice of appeal has expired.

(d) Temporary or Seasonal Jobs: The requirements of this section shall not apply to application forms and other preemployment records of applications for positions known to applicants to be of a temporary or seasonal nature. For purposes of this part only,

any position which the employer anticipates filling for 20 or more calendar weeks shall not be considered temporary or seasonal.

Subpart D—Apprenticeship Information Report

10. Section 1602.15 is revised as follows:

§ 1602.15 Requirement for filing and preserving copy of report.

On or before September 30, 1967, and annually thereafter, certain joint labor-management committees subject to title VII which control apprenticeship programs shall file with the Commission or its delegate, executed copies of "Apprenticeship Information Report EEO-2" in conformity with directions set forth in the form and accompanying instructions. The committees covered by this regulation are those which (a) have five or more apprentices enrolled in the program at any time during August and September of the reporting year, and (b) represent at least one employer sponsor and at least one labor organization sponsor which are themselves subject to title VII. Every such committee shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII. It is the responsibility of all such committees to obtain from the Commission or its delegate necessary supplies of the form.

11. Section 1602.16 remains unchanged.

12. Section 1602.17 is revised as follows:

§ 1602.17 Commission's remedy for failure to file report.

Any person or joint labor-management apprenticeship committee failing or refusing to file Report EEO-2 when required to do so may be compelled to file by order of a U.S. District Court, upon application of the Commission under authority of section 709(c) of title VII.

13. Sections 1602.18 and 1602.19 remain unchanged.

Subpart E—Apprenticeship Recordkeeping

14. Section 1602.20 is revised as follows:

§ 1602.20 Records to be made or kept.

(a) Every person or entity required to file Report EEO-2 shall make or keep such records as are necessary for its completion under the conditions and circumstances set forth in the instructions accompanying the report, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

(b) Every employer, labor organization, and joint labor-management committee which controls an apprenticeship program and is required to file Report EEO-2 shall, beginning November 30, 1978, maintain a list in chronological order containing the names and addresses of all persons who have applied to participate in the apprenticeship program, including the dates on which such applications were received. Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not of Hispanic origin), "Black" (not of Hispanic origin), "Hispanic," "Asian or Pacific Islander," or "American Indian or Alaskan Native." The methods of making such identification are set forth in the instructions accompanying Report EEO-2. The words "applied," "applicant," and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific desire to be considered for admission to the apprenticeship program. A person who simply appears to make an informal inquiry about the program, or about apprenticeship in general, is not considered to be an applicant. The term "apprenticeship program" as used herein refers to programs described in the instructions accompanying Report EEO-2.

15. Section 1602.21 is revised as follows:

§ 1602.21 Preservation of records made or kept.

(a) Every person or entity subject to § 1602.15 shall preserve for a period of 2 years from the date of filing of the EEO-2 form such records as are necessary for completion of the form in accordance with the instructions accompanying such form.

(b) Every person subject to § 1602.20(b) shall preserve the list of applicants or application forms, as the case may be, for a period of 2 years from the date the application was received, or for the period of a successful applicant's apprenticeship, whichever is longer. The Commission recommends that records as to the racial and ethnic identity of any individual accepted for apprenticeship be kept separately from the employee's basic personnel file or other records available to those responsible for personnel decisions.

(c) Any other records relating to apprenticeship made or kept by an entity controlling an apprenticeship program required to file form EEO-2 including but not necessarily limited to test papers completed by applicants for apprenticeship and records of interviews with applicants, shall be kept for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. When a charge of discrimination has been filed, or an action has been brought under title VII by the Commission or an aggrieved person, the respondent shall preserve all records relevant to the charge or action until final disposition of the charge or the action. The term "records relevant to the charge," for example, would include applications, forms or test papers completed by an aggrieved person and by all other candidates for the same position as that for which the aggrieved person applied and was rejected. All records made or kept pursuant to § 1602.20(b) shall be preserved. the date of "final disposition of the charge or the action" means the date the expiration of the statutory period within which an aggrieved person may bring an action in a United States District Court or, where an action is brought either by an aggrieved person or the Commission, the date on which such litigation is terminated by entry of a final order and time for filing a notice of appeal has expired.

Subpart F—Local Union Equal Employment Opportunity Report

16. Section 1602.22 is revised as follows:

§ 1602.22 Requirements for filing and preserving copy of report.

On or before November 30, 1967, and annually thereafter, every labor organization subject to title VII shall file with the Commission or its delegate in executed copy of "Local Union Equal Employment Opportunity Report EEO-3" in conformity with the directions set forth in the form and accompanying instructions, provided that the labor organization has 100 or more members at any time during the 12 months preceding the due date of the report, and is a "local union" (as that term is commonly understood) or an independent or unaffiliated union. Labor organizations required to report are those which perform, in a specific jurisdiction, the functions ordinarily performed by a local union, whether or not they are so designated. Every local union or a labor organization acting in its behalf, shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of section 710 of title VII. It is the responsibility of all persons required to file to obtain from the Commission, Washington, D.C. 20506, or its

delegate, necessary supplies of the form.

17. Section 1602.23 remains unchanged.

18. Section 1602.24 is revised as follows:

§ 1602.24 Commission's remedy for failure to file report.

Any person or labor union failing or refusing to file report EEO-3 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Commission, under authority of § 709(c) of title VII.

19. Sections 1602.25 and 1602.26 remain unchanged.

Subpart G—Recordkeeping by Labor Organizations

20. Sections 1602.27 and 1602.28 are revised as follows:

§ 1602.27 Records to be made or kept.

(a) Those portions of report EEO-3 calling for information about union policies and practices and for compilation of statistics on the race, color, national origin, and sex of members, persons referred, and apprentices, are deemed to be "records" within the meaning of § 709(c) of title VII. Every local, independent, or unaffiliated union with 100 or more members (or any agent acting on its behalf, if the agent has responsibility for employment) shall make these records or such other records as are necessary for the completion of report EEO-3 under the circumstances and conditions set forth in the instructions accompanying it which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

(b) Every referral union, or agent thereto, required to file report EEO-3 shall, beginning November 30, 1978, maintain a list in chronological order containing the names and addresses of all persons who have applied for membership or referral opportunities including the dates on which such applications were received. Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not of Hispanic origin), "Black" (not of Hispanic origin), "Hispanic," "Asian or Pacific Islander," or "American Indian or Alaskan Native." The methods of making such identification are set forth in instructions involving actual applications only. An applicant is considered for admission to the union or referral for employment. A person who simply appears to make an informal inquiry about the union or about employment in general, is not considered to be an applicant. The term "referral union" is defined in instructions accompanying report EEO-3.

§ 1602.28 Preservation of records made or kept.

(a) Every labor union subject to § 1602.22 shall preserve for a period of 2 years from the date of filing of the EEO-3 form such records as are necessary for completion of the form in accordance with the instructions accompanying such form.

(b) Every referral union, or its agent, subject to § 1602.27(b) shall preserve the list of applicants for a period of 2 years from the date the application was received. The Commission recommends that records as to the racial identity of any individual accepted for membership or referral be kept separately from the employee's basic personel form or other records available to those responsible for personnel decisions.

(c) Any other personnel or employment records made or kept by a labor organization required to file form EEO-3, including but not limited to forms, applications, and records having to do with membership, referral, seniority rosters and the processing of grievances shall be preserved by the union for a period of 2 years from the date of the record or the action involved, whichever occurs later. Where a charge of discrimination has been filed or an action has been brought against a union under title VII by the Commission or an aggrieved person, the respondent labor organization shall preserve all records relevant to the charge or action until final disposition of the charge or action. All records made or kept pursuant to § 1602.27(b) shall also be preserved. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which an aggrieved person may bring an action in a United States District Court or, where an action is brought against a labor organization either by the Commission or an aggrieved person, the date on which such litigation is terminated by a final order and time for filing a notice of appeal has expired.

(d) Nothing herein shall relieve any labor organization covered by title VII of the obligations set forth in subpart E, §§ 1602.20 and 1601.21, relating to the establishment and maintenance of a list of applicants wishing to participate in an apprenticeship program controlled by it.

Subpart H—[Redesignated]

21. Subpart H, containing only § 1602.29 will remain unchanged but will be redesignated.

Subpart I—State and Local Government Information Report

22. This subpart I was formerly lettered subpart J. The current subpart I is redesignated as subpart J.

§ 1602.29 [Redesignated]

23. Present § 1602.29 will be redesignated, and the following § 1602.29, revised and redesignated from § 1602.32, is added.

§ 1602.29 Requirements for filing and preserving copy of report.

(a) On or before September 30, 1974, and annually thereafter, certain political jurisdictions subject to title VII shall file with the Commission, Washington, D.C. 20506, or its delegate executed copies of "State and Local Government Information Report EEO-4" in conformity with the directions set forth in the form and accompanying instruction. The political jurisdictions covered by this regulation are (1) those which have 100 or more employees, and (2) those other political jurisdictions which have 15 or more employees from whom the Commission requests the filing of reports. Every such political jurisdiction shall retain at all times a copy of the most recently filed EEO-4 at the central office of the political jurisdiction for a period of 2 years and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of § 710 of title VII. For purposes of this subpart only, a political jurisdiction shall be considered any State, county, city, town, or other local government or an agency thereof.

(b) For calendar year 1973, the requirements of paragraph (a) of this section shall be carried out on or before October 31, 1973.

§ 1602.30 [Redesignated as § 1602.35]

24. Former § 1602.30 is changed and renumbered § 1602.35.

§ 1602.31 [Redesignated as § 1602.36]

25. Former § 1602.31 is changed and renumbered § 1602.36.

§ 1602.32 [Redesignated as § 1602.29]

26. Former § 1602.32 is changed and renumbered § 1602.29.

§§ 1602.33 and 1602.34 [Redesignated].

27. Former §§ 1602.33 and 1602.34 remain unchanged but will be renumbered.

28. The following § 1602.33, formerly § 1602.36, is added:

§ 1602.33 Schools exemption.

The recordkeeping and report-filing requirements of subpart I and J shall not apply to State or Local educational institutions or to school districts or schools systems or any other educational functions. The previous sentence of this section shall not act to bar jurisdiction which otherwise would attach under § 1602.35.

29. The following § 1602.34, formerly § 1602.37, is added:

§ 1602.34 Additional reporting requirements.

The Commission reserves the right to require reports, other than that designated as the "State and Local Government Information Report EEO-4," about the employment practices of individual political jurisdictions or groups of political jurisdictions whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in § 709(c) of Title VII and as otherwise prescribed by law.

Subpart J—State and Local Governments Recordkeeping

30. This Subpart J was formerly lettered Subpart I. The current Supart J is redesignated as Subpart I.

§ 1602.35 Records to be Made or Kept.

(a) On or before July 30, 1973, and annually thereafter every political jurisdiction with 15 or more employees is required to make or keep records and the information therefrom which are or would be necessary for the completion of report EEO-4 under the circumstances set forth in the instructions thereto, whether or not the political jurisdiction is required to file such report under § 1602.29 of the regulations in this part. The instructions are specially incorporated herein by reference and have the same force and effect as other sections of this part.[1] Although agency data may be aggregated by functions for purposes of reporting, separate data for each agency must be made or kept either by the agency itself or by the office of the political jurisdiction responsible for preparing the EEO-4 form. It is the responsibility of every political jurisdiction to obtain from the Commission, Washington, D.C. 20506, or its delegate necessary instructions in order to comply with the requirements of this section.

(b) Every political jurisdiction required to file Report EEO-4 annually shall also, beginning Nov. 30, 1978, maintain a list in chronological order containing the names and addresses of all persons who have applied for employment including the dates on which such applications were received. Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not of Hispanic origin)," "Black" (not of Hispanic origin), "Hispanic," "Asian or Pacific Islander," or "American Indian or Alaskan Native." The methods of making such identification are set forth in the Appendix to the instructions accompanying Report EEO-4. The words "applied," "applicant" and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific desire to be considered for employment. A person who simply appears to make an informal inquiry about employment in the political jurisdiction or agency in general, is not considered to be an applicant. Although agency records may be stored in a central place, separate records for each agency must be made or kept either by the agency itself or the office of the political jurisdiction responsible for preparing the EEO-4 form.

§ 1602.36 [Redesignated as § 1602.33]

31. Section 1602.36 is redesignated as § 1602.33. The following new § 1602.36, revised and redesignated from § 1602.31, replaces it.

§ 1602.36 Preservation of records made or kept.

(a) Every political jurisdiction subject to § 1602.29 shall preserve for a period of 2 years from the date of filing of the EEO-4 Form such records as are necessary for completion of the Form in accordance with the instructions accompanying such Form.

(b) Every political jurisdiction subject to § 1602.35(b) shall preserve the list of applicants for a period of 2 years from the date the applications were received. The Commission recommends that records as to the racial and ethnic identity of any individual accepted for employment be kept separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of automatic data processsing system in the payroll department.

(c) Any other personnel or employment record made or kept by a political jurisdiction (including but not necessarily limited to forms, applications, and records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation and selection for training or apprenticeship) shall be preserved by the political jurisdiction for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action has been brought by the Attorney General or an aggrieved person against a political jurisdiction under title VII, the respondent political jurisdiction shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action. The term "personnel record relevent to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person, and application forms or test papers completed by the aggrieved person and all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. All records made or dept pursuant to § 1602.35(b) shall also be preserved. The date of final disposition of the charge or the action means the date of expiration of the statutory period within which an aggrieved person may bring an action in U.S. Dictrict Court or, where an action is brought against a political jurisdiction, either by an aggrieved person or by the Attorney General, the date on which such litigation is terminated by final order and time for filing a notice of appeal has expired.

(d) The requirements of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be of a temporary or seasonal nature. For purposes of this part only, any position which an employer anticipates filling for 20 or more calendar weeks for an average of 20 hours per week shall not be considered temporary or seasonal.

Subpart K—Elementary—Secondary Staff Information Report

32. This Subpart K was formerly lettered Subpart M. The current Subpart K will be deleted or reserved.

§ 1602.37 [Redesignated as § 1602.34]

33. Section 1602.37 is redesignated as § 1602.34. It is replaced by the following new § 1602.37, which was formerly numbered § 1602.41.

§ 1602.37 Requirement for filing and preserving copy of report.

(a) On or before; November 30, 1974, and annually thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, and individual schools within such systems or districts shall file with the Commission, Washington, D.C. 20506, or its delegate executed copies of "Elementary-Secondary Staff Information Report EEO-5" in conformity with the directions set forth in the form and accom-

[1] Instructions were published as an appendix to the proposed regulations on March 2, 1973 (38 FR 5662).

panying instructions. The elementary and secondary school systems and districts covered are: (1) every one of those which have 100 or more employees, and (2) every one of those others which have 15 or more employees from whom the Commission requests the filing of reports. Every such elementary or secondary school system or district shall retain at all times, for a period of 2 years, a copy of the most recently filed report EEO-5 at the central office of the school system or district, or the individual school which is the subject of the report, where more convenient, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of § 710 of Title VII. It is the responsibility of the school systems or districts above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

(b) For calendar year 1973, the requirements of subsection (a) of this section shall be carried out on or before January 15, 1974.

§ 1602.38 [Redesignated as § 1602.53]

34. Current § 1602.38 is revised and redesignated as § 1602.53.

§ 1602.39 [Redesignated as § 1602.42]

35. Current § 1602.39 is revised and redesignated as § 1602.42. The following § 1602.39, revised and redesignated from § 1602.43, is added.

§ 1602.39 Commission's remedy for school system's districts or individual schools' failure to file report.

Any school system, district or individual school failing or refusing to file report EEO-5 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Attorney General.

§ 1602.40 [Redesignated as § 1602.43]

36. Section 1602.40 is revised and redesignated as § 1602.43.

§ 1602.41 [Redesignated as § 1602.37]

37. Section 1602.41 is revised and redesignated as § 1602.37.

Subpart L—Elementary and Secondary School Systems, Districts and Individual Schools Recordkeeping

§ 1602.42 [Redesignated]

38. Current § 1602.42 will remain unchanged but will be redesignated. The following § 1602.42, revised and redesignated from § 1602.39, is added.

§ 1602.42 Records to be made or kept.

(a) On or before Nov. 30, 1974, and annually thereafter, every public elementary and secondary school system and district, including every individually or separately administered district within a system, with 15 or more employees and every individual school within such system or district, regardless of the size of the school, shall make or keep all records and information therefrom which are or would be necessary for the completion of report EEO-5 whether or not it is required to file such a report under § 1602.37. The instructions for completion of report EEO-5 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.[1] Such records and the information therefrom shall be retained for a period of 2 years at the central office of the elementary or secondary school system or district, or at the individual school which is the subject of the records, where more convenient. It is the responsibility of every such school system or district, to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

(b) Every public elementary and secondary school system or district, including every individually or separately administered district within such a system, and every individual school within such system or district which is required to file EEO-5 shall also, beginning Nov. 30, 1978 maintain a list of chronoligical order containing the names and addresses of all persons who have applied for employment including the dates on which such applications were received (see section 709(c), Title VII, Civil Rights Act of 1964). Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not of Hispanic Origin), "Black" (not of Hispanic Origin), "Hispanic," "Asian or Pacific Islander," or "American Indian or Alaskan Native." The methods of making such indentification are set forth in the appendix to the instructions accompanying Report EEO-5. The words "applied," "applicant" and "application" as used in this section refer to situations involving actual applications only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific desire to be considered for employment. A person who simply appears to make an informal inquiry about employment in general, is not considered to be an applicant. Such records may be maintained at the central office of the elementary or secondary school system or district, or at the individual school which is the subject of the records.

§ 1602.43 [Redesignated as § 1602.39]

39. Current § 1602.43 is revised and redesignated as § 1602.39. The following § 1602.43, revised and redesignated from § 1602.40, is added.

§ 1602.43 Preservation of records made or kept.

(a) Every public elementary and secondary school, system or district subject to § 1602.37 shall preserve for a period of 2 years from the date of filing of the EEO-5 Form such records as are necessary for completion of the Form in accordance with the instructions accompanying such Form.

(b) Every public elementary and secondary school system, school district, and individual school subject to § 1602.42(b) shall preserve the list of applicants for a period of 2 years from the date the applications were received. The Commission recommends that records as to the racial and ethnic identity of any individual accepted for employment be kept separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

(c) Any other personnel or employment record made or kept by a school system, district, or individual school (including but not necessarily limited to application forms submitted by applicants and other records, having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by such school system, district or school, as the case may be, for a period of 2 years, from the date of the making of the record of the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought against an elementary or secondary school by the Attorney General, or an aggrieved person, the respondent elementary or secondary school system, district, or individual school shall preserve similarly at the central office of the system or district or individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel record relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person, and application forms or test papers completed by the aggrieved person and by all other candidates for the same position as that for which the aggrieved person ap-

[1] Instructions were published as an appendix to the proposed regulations on June 12, 1973 (38 FR 15463).

plied and was rejected. All records made or kept pursuant to § 1602.42(b) shall also be preserved. The date of final disposition of the charge or the action means the date of expiration of the statutory period within which a person claiming to be aggrieved may bring an action in a United States District Court or, where an action is brought against a political jurisdiction, either by a person claiming to be an aggrieved or by the Attorney General, the date on which such itigation is terminated by a final order and time for filing a notice of appeal has expired.

(d) The requirements of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be of a temporary or seasonal nature.

Subpart M—Higher Education Staff Report

40. This Subpart M incorporates material from former Subparts O and P.

§ 1602.44 [Redesignated]

41. Current § 1602.44 will remain unchanged but will be redesignated. The following § 1062.44, formerly § 1062.47, is added.

§ 1602.44 Definition.

Under subparts L and M of this part, the term "institution of higher education" means an institutional system, college, university, community college, junior college, and any other educational institution which offers an associate degree, baccalaureate degree or which offers a two year program of college level studies without degree. The term "college level studies" means a post secondary program which is wholly or principally creditable toward a baccalaureate degree or terminates in an associate degree.

§ 1602.45 [Redesignated]

42. Current § 1602.45 will be redesignated but will remain unchanged. The following § 1602.45, revised and redesignated from § 1602.50, is added.

§ 1602.45 Requirement for filing and preserving copy of report.

On or before November 30, 1975, and biennially thereafter, every public and private institution of higher education having fifteen (15) or more employees shall file with the Commission, Washington, D.C., 20506, or its delegate executed copies of "Higher Education Staff Information Report EEO-6" in conformity with the directions set forth in the form and accompanying instructions. Every institution of higher education shall retain at all times, for a period of two years a copy of the most recently filed Report EEO-6 at its central administrative office, at the central office of a separate campus or branch, or at an individual school which is the subject of the report, where more convenient. An institution of higher education shall make the same available if requested by the Commission or its representative under the authority of § 710 of the act and 29 U.S.C. § 161. It is the responsibility of the institutions above described in this section to obtain from the Commission or its delegates necessary supplies of the form.

§ 1602.46 [Redesignated as § 1602.53]

43. Section 1602.46 is revised and redesignated as § 1602.53.

§ 1602.47 [Redesignated as § 1602.44]

44. Current § 1602.47 is redesignated as § 1602.44. The following § 1602.47, redesignated from § 1602.52, is added.

§ 1602.47 Commission's Remedy for Failure to File.

Any institution of higher education failing or refusing to keep records, in accordance with §§ 1602.50 or 1602.51 of this subpart, or failing or refusing to file Report EEO-6 when required to do so, in accordance with § 1602.45 of this part, may be compelled to keep records or to file by order of a U.S. District Court upon application of the Commission, or the Attorney General in a case involving a public institution.

§ 1602.48 [Redesignated as § 1602.50]

45. Current § 1602.48 is revised and redesignated as § 1602.50. The following § 1602.48, redesignated from § 1602.53, is added.

§ 1602.48 Exemption from reporting requirements.

If it is claimed that the preparation or filing of the report would create undue hardship, the institution of higher education may apply to the Commission for an exemption from the requirements set forth in subparts L and M of this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system no later than 45 days prior to the date on which the report must be filed.

§ 1602.49 [Redesignated as § 1602.51]

46. Section 1602.49 is revised and redesignated as § 1602.51.

Subpart N—Recordkeeping for Institutions of Higher Education

47. This Subpart N was formerly Subpart O.

§ 1602.50 [Redesignated as § 1602.45]

48. Current § 1602.50 is revised and redesignated as § 1602.45. The following § 1602.50, revised and redesignated from § 1602.48, is added.

§ 1602.50 Records to be made or kept.

(a) Commencing August 1, 1975, every institution of higher education, whether public or private, with 15 or more employees shall make or keep all records, and information therefrom, which are or would be necessary for the completion of higher education staff information report EEO-6. The instructions for completion of report EEO-6 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.[1] Such records, and the information therefrom, shall be made or kept at the central administrative office of the institution of higher education, at the central administrative office of a separate campus or branch, or at an individual school which is the subject of the records and information, where more convenient. Such records, and the information therefrom, shall be made available if requested by the Commission or its representative under section 710 of title VII and 29 U.S.C 161. It is the responsibility of every institution of higher education to obtain from the Commission or its delegate the necessary instructions in order to comply with the requirements of this section.

(b) Every institution of higher education with 15 or more employees required to file report EEO-6 shall, beginning November 30, 1977, maintain a list in chronological order containing the names and addresses of all persons who have applied for employment including the dates on which such applications were received. Such list shall contain a notation of the sex of the applicant and of the applicant's identification as "White" (not of Hispanic origin), "Black" (not of Hispanic origin), "Hispanic," "Asian or Pacific Islander" or "American Indian or Alaskan Native." The methods of making such identification are set forth in the appendix to the instructions accompanying report EEO-6. The words "applied," "applicant," and "application" as used in this section refer to situations involving actual applicants only. An applicant is considered to be a person who files a formal application, or in some informal way indicates a specific desire to be considered for employment. A person who simply appears to make an informal inquiry about the institution, or about employment in general, is not considered to be an applicant. These records may be made or kept at the central administrative office of the institution of higher education at the central administrative office of a separate campus or branch, or at an individual school which is the subject of the records, whichever is more convenient.

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[1] Note: Instructions were published as an appendix to the regulations at 40 FR 25188, June 12, 1975.

§ 1602.51 [Redesignated]

49. Current § 1602.51 will be renumbered but will remain unchanged. The following § 1602.51, revised and redesignated from § 1602.49, is added.

§ 1602.51 Preservation of records made or kept.

(a) Every institution of higher education subject to § 1602.45 shall preserve for a period of 2 years from the date of filing of the EEO-6 form such records as are necessary for completion of the form in accordance with the instructions accompanying such form.

(b) Every educational institution subject to § 1602.50(b) shall preserve the list of applicants or applications forms, as the case may be, for a period of 2 years from the date the application was received. The Commission recommends that records as to the racial or ethnic identity of any individual accepted for employment be kept separately from the employee's basic personnel form or other records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

(c) Any other personnel or employment records made or kept by an institution of higher education (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, tenure, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training) shall be preserved by such institution of higher education for a period of 2 years from the date of the making of the personnel action or record involved, whichever occurs later. In the case of the involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or a civil action brought against an institution of higher education by the Commission, the Attorney General, or an aggrieved person, the respondent shall preserve similarly at the central administrative office of the institution of higher education, at the central office of a separate campus or branch, or at the individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel records relevant to the charge," for example, would include personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by persons aggrieved; it would also include application forms or test papers completed by the aggrieved person and by all other candidates for the same position as that for which the aggrieved person applied and was rejected and all records made or kept pursuant to § 1602.50(b) shall also be preserved. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which an aggrieved person may bring an action in the U.S. district court or, where an action is brought against an institution of higher education by the aggrieved person, the Commission, or the Attorney General, the date when such litigation is terminated by entry of a final order and time for filing a notice of appeal has expired.

(d) The requirements of this section and § 1602.50 shall not apply to application forms and other preemployment records of (1) the undergraduate students of an institution of higher education who are employed part-time or temporarily by the institution of higher education or by a student organization sponsored by the institution of higher education; to graduate students who are working part-time or temporarily in nonfaculty positions for the institution of higher education or for a student organization sponsored by the institution of higher education or are working part-time in faculty positions in which work assignments are primarily for fulfilling the requirements of a degree more advanced than a bachelor's degree, and (2) to nonstudent applicants for positions known to nonstudent applicants to be of a temporary or seasonal nature.

§ 1602.52 [Redesignated as § 1602.47]

50. Current § 1602.52 is redesignated as § 1602.47. The following new subpart O, consisting of a new § 1602.52, is added.

Subpart O—Availability of Records for Commission Inspection

§ 1602.52 Availability of records for Commission inspection.

Any record made or kept pursuant to subparts C, E, G, I, K, and M, N, O, P, of this part shall be made available if requested by the Commission or its duly authorized agents or agencies under section 710 of title VII for the purposes of an investigation or hearing. This requirement does not preclude the Commission or its representatives from seeking additional information for the purpose of an investigation or hearing, or from seeking information in other circumstances as authorized by law.

51. The following new subpart P is added:

Subpart P—Applicability of State or Local Law

§ 1602.53 [Redesignated as § 1602.48]

52. Current § 1602.53 is redesignated as § 1602.48. The following § 1602.53, revised and redesignated from § 1602.55, is added.

§ 1602.53 Applicability of State or local law.

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts D through O, supersede any provisions of State or local law which may conflict with them. Any State or local law prohibiting inquiries and recordkeeping with respect to race, color, national origin, or sex does not apply to inquiries required to be made under these regulations and under the instructions accompanying Reports EEO-1, EEO-2, EEO-3, EEO-4, EEO-5, and EEO-6.

§ 1602.54 [Redesignated]

53. Section 1602.54 will be redesignated but will remain unchanged.

§ 1602.55 [Redesignated as § 1602.53]

54. Section 1602.55 is revised and redesignated as § 1602.53.

55. The following new subpart Q is added.

Subpart Q—Acquisition of Data

56. The following § 1602.56, revised and redesignated from § 1602.13, is added.

§ 1602.56 Records as to racial or ethnic identity of employees.

(a) Employers may acquire the information necessary for completion of report forms EEO-1, EEO-2, EEO-3, EEO-4, EEO-5, and EEO-6 either by visual surveys of the workforce, or at their option by the maintenance of postemployment records as to the identity of employees where the same is permitted by State law. In the latter case, however, the Commission recommends the maintenance of a permanent record as to the racial or ethnic identity of an individual for purposes of completing the report form only where the employer keeps such records separately from the employee's basic personnel form or their records available to those responsible for personnel decisions, e.g., as part of an automatic data processing system in the payroll department.

(b) Similarly, employers required to keep lists of race and sex of persons who have applied for employment may acquire the information either visually or by questionnaire sent separate and apart from the employment form. The employers may not maintain the race and sex data on an individual's application form. Such data may be maintained only on the chronological lists described in this part 1602.

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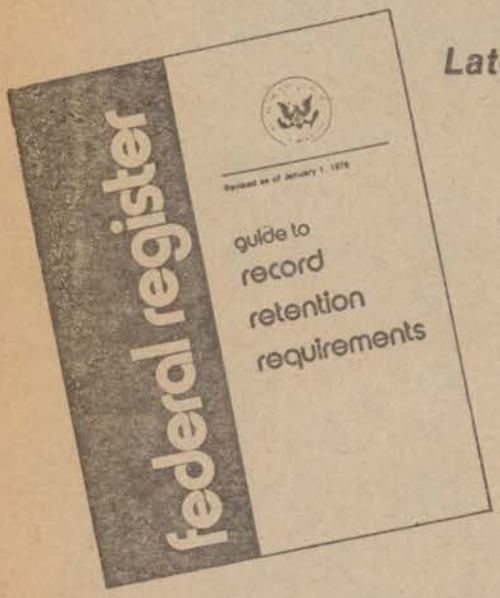

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